

ACTS 2004

Second Regular Session of the 113th Indiana General Assembly

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ACTS 2003

Laws enacted by the

113th GENERAL ASSEMBLY

at the

FIRST REGULAR SESSION (2003)

NOTE:

Public Laws 281, 282, and 283 of 2003 originated in the 2003 First Regular Session of the Indiana General Assembly and were vetoed by the Governor in 2003. The Governor's vetoes were overridden by the General Assembly at the 2004 Regular Session. Article 5, Section 14 of the Indiana Constitution requires bills that become law under such circumstances to be treated as laws of the session in which they originated. Because Public Laws 281, 282, and 283 of 2003 could not be published with the other 2003 session laws, those Public Laws have been included at the beginning of this volume.

By the authority of
INDIANA LEGISLATIVE COUNCIL
(IC 2-6-1.5)

Office of Code Revision
Legislative Services Agency

PREFACE TO 2003 ACTS

ARRANGEMENT

Public Laws 281, 282, and 283 of 2003 resulted from the 2004 override of 2003 vetoes.

PRINTING CODE

A special printing code has been used in publishing the session laws in order that the reader may determine at a glance the specific changes made by any amendment. The following statement appeared at the top of each bill:

PRINTING CODE: Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 General Assembly.

Upon the recommendation of the Code Revision Commission, the Legislative Council authorized a change in the style in which bills are printed to highlight the manner in which "blind amendments" are resolved in the technical correction bill prepared by the Code Revision Commission. A "blind amendment" occurs when two or more enrolled acts amend the same section of law but fail to indicate how they are to be read together. P.L.1-2003 (HEA1167-2003), the technical correction bill prepared for the 2003 Session of the General Assembly, uses an *italic typeface* to indicate that one or more words contained in a law

enacted in 2002 were absent from other versions the law enacted in the same session. P.L.1-2003 (HEA1167-2003) resolves the differences by striking superfluous words and inserting additional words as needed to harmonize the various versions of the law.

This system is intended to make the session laws more usable to the researcher by eliminating the need to compare each amendment against the text of the prior law in order to determine exactly what changes the General Assembly made.

Of course, these typefaces are intended only as a tool to indicate to the reader the text of the prior law that was deleted by amendment and to highlight any new text that was added by amendment. They are not a permanent part of the law itself. In reproducing or quoting the law, it is unnecessary to retain these typefaces; instead, all stricken text may be deleted and all boldface and italic may be reproduced in regular type.

PUBLIC LAW CITATION FORM

The public law citation form incorporates the year the public law was enacted as a part of the public law number. For example, Public Law 281 enacted by the 113th First Regular Session is cited as P.L.281-2003.

CERTIFICATION

IC 2-6-1.5 requires the Indiana Legislative Council to supervise the preparation, indexing, and distribution of the session laws. Under IC 2-6-1.5, the Speaker of the House of Representatives and President Pro Tempore of the Senate must certify that the printed session laws have been compared with the enrolled acts and joint resolutions and have been found correct. The certification for P.L.281-2003, P.L.282-2003, and P.L.283-2003 immediately follows the text of Public Law 283.

LAWS OF INDIANA

passed at the
FIRST REGULAR SESSION
113TH GENERAL ASSEMBLY

P.L.281-2003

[H.1660. Vetoes by the Governor May 1, 2003.

Passed over veto January 27, 2004.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-10-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) **Except as provided in subsection (b)**, as used in this chapter, "endangered adult" means an individual who is:

- (1) at least eighteen (18) years of age;
- (2) incapable by reason of mental illness, mental retardation, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and
- (3) harmed or threatened with harm as a result of:
 - (A) neglect;
 - (B) battery; or
 - (C) exploitation of the individual's personal services or

property.

(b) For purposes of IC 12-10-3-17, IC 35-42-2-1, and IC 35-46-1-13, "endangered adult" means an individual who is:

- (1) at least eighteen (18) years of age;
- (2) incapable by reason of mental illness, mental retardation, dementia, or other physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care; and
- (3) harmed or threatened with harm as a result of:
 - (A) neglect; or
 - (B) battery.

(c) An individual is not an endangered adult solely:

- (1) for the reason that the individual is being provided spiritual treatment in accordance with a recognized religious method of healing instead of specified medical treatment if the individual would not be considered to be an endangered adult if the individual were receiving the medical treatment; or
- (2) on the basis of being physically unable to provide self care when appropriate care is being provided.

SECTION 2. IC 12-10-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. If an adult protective services unit receives a report alleging that an individual who is a resident of a facility licensed under IC 16-28 is an endangered adult, the adult protective services unit shall immediately communicate the report to the state department of health under IC 16-28-4-1. ~~The division or the adult protective services unit shall perform the other responsibilities concerning endangered adults under section 8 of this chapter only if the state department of health requests the assistance of the division or the adult protective services unit.~~

SECTION 3. IC 35-42-2-1, AS AMENDED BY P.L.222-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

- (1) a Class A misdemeanor if:
 - (A) it results in bodily injury to any other person;
 - (B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while

the officer is engaged in the execution of his official duty;
(C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty; or

(D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;

(2) a Class D felony if it results in bodily injury to:

(A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of his official duty;

(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(C) a person of any age who is mentally or physically disabled and is committed by a person having the care of the mentally or physically disabled person, whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) an endangered adult (as defined ~~by IC 35-46-1-1~~); **in IC 12-10-3-2**;

(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;

(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;

(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;

(J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty; or

(K) a firefighter (as defined in IC 9-18-34-1) while the

firefighter is engaged in the execution of the firefighter's official duty;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age; ~~and~~

(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2); and

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2).

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

SECTION 4. IC 35-46-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) A person who:

(1) believes or has reason to believe that an endangered adult is the victim of battery, neglect, or exploitation as prohibited by this chapter, ~~IC 35-42-2-1(2)(C); IC 35-42-2-1(a)(2)(C), or IC 35-42-2-1(2)(F); IC 35-42-2-1(a)(2)(E); and~~

(2) **knowingly** fails to report the facts supporting that belief to the division of disability, aging, and rehabilitative services, the adult protective services unit designated under IC 12-10-3, or a law enforcement agency having jurisdiction over battery, neglect, or exploitation of an endangered adult;

commits a ~~Class A infraction~~. **Class B misdemeanor.**

(b) An officer or employee of the division or adult protective services unit who unlawfully discloses information contained in the records of the division of disability, aging, and rehabilitative services under IC 12-10-3-12 through IC 12-10-3-16 commits a Class C

infraction.

(c) A law enforcement agency that receives a report that an endangered adult is or may be a victim of battery, neglect, or exploitation as prohibited by this chapter, ~~IC 35-42-2-1(2)(C)~~, **IC 35-42-2-1(a)(2)(C)**, or ~~IC 35-42-2-1(2)(F)~~ **IC 35-42-2-1(a)(2)(E)** shall immediately communicate the report to the adult protective services unit designated under IC 12-10-3.

(d) An individual who discharges, demotes, transfers, prepares a negative work performance evaluation, reduces benefits, pay, or work privileges, or takes other action to retaliate against an individual who in good faith makes a report under IC 12-10-3-9 concerning an endangered individual commits a Class A infraction.

P.L.282-2003

[H.1798. Vetoed by the Governor May 8, 2003.

Passed over veto January 27, 2004.]

AN ACT to amend the Indiana Code concerning environmental management.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1.5-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The legislative body of a municipality may, by ordinance, provide for the control of any or all of its municipally owned utilities by:

- (1) the municipal works board;
- (2) a board consisting of the members of the municipal legislative body;
- (3) a utility service board established under subsection ~~(e)~~ **(f)** or established before January 1, 1983, under IC 8-1-2-100 (repealed); or
- (4) the board of directors of a department of waterworks established under IC 8-1.5-4.

The legislative body of a third class city also may adopt an

ordinance under this subsection to provide for the control of any or all of its storm water facilities by a board described in subdivisions (1) through (4). An ordinance granting control of any or all of a third class city's storm water facilities to a board described in this subsection may be separate from or combined with an ordinance granting control of the third class city's municipally owned utilities to a board described in this subsection.

(b) If, at the time an ordinance is adopted under subsection (a) to grant control of any or all of a third class city's storm water facilities to a board described in subsection (a) the third class city has a department of storm water management under IC 8-1.5-5, the ordinance must specify a procedure for the transition of control of the affected storm water facilities from the board of directors of the department of storm water management to the board described in subsection (a).

(c) The registered voters of a municipality may file a petition addressed to the legislative body requesting that the question of the creation of a utility service board be submitted to a referendum. The petition must be signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot.

~~(c)~~ (d) Within thirty (30) days after a petition is filed, the municipal clerk shall certify to the legislative body and to the county election board that a sufficient petition has been filed.

~~(d)~~ (e) Following certification, the legislative body shall submit the question of the creation of a utility service board to a referendum at the next election. The question shall be submitted to the registered voters of the municipality by placement on the ballot in the form prescribed by IC 3-10-9-4 and must state:

"Shall the legislative body of the municipality of _____ adopt an ordinance providing for the appointment of a utility service board to operate _____ (Insert name of utility here)?".

~~(e)~~ (f) If a majority of the voters voting on the question vote for the creation of a utility service board, the legislative body shall, by ordinance, establish a utility service board consisting of not less than three (3) nor more than seven (7) members. Not more than two-thirds (2/3) of the members may be of the same political party. All members must be residents of the area served by the board. The ordinance must

provide for:

- (1) a majority of the members to be appointed by the executive and a minority of the members to be appointed by the legislative body;
- (2) the terms of the members, which may not exceed four (4) years, with initial terms prescribed so that the members' terms will be staggered;
- (3) the salaries, if any, to be paid to the members; and
- (4) the selection by the board of a chairman, who shall not be considered the head of a department for purposes of IC 36-4-9-2.

~~(f)~~ **(g)** The registered voters of the municipality may also file a petition requesting that the question of the abolition of the utility service board be submitted to a referendum. The procedure for filing of the petition and the referendum is the same as that prescribed by subsections ~~(b)~~ **(c)** through ~~(d)~~ **(e)**.

SECTION 2. IC 8-1.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to each:

- (1) municipality; and
- (2) county that:
 - (A) does not have a consolidated city; and**
 - (B) receives notification from the department of environmental management that the county will be subject to storm water regulation under 327 IAC 15-13;**

that adopts the provisions of this chapter by ordinance.

SECTION 3. IC 8-1.5-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. The definitions in IC 36-1-2 apply throughout this chapter.**

SECTION 4. IC 8-1.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "board" means the following:

- (1) For a consolidated city, the board of public works established by IC 36-3-5-6.
- (2) For all other municipalities, the:
 - (A) board of directors described in section 4 of this chapter; or**
 - (B) board that controls the third class city's municipally owned utilities under IC 8-1.5-3-3(a) if the city has adopted**

an ordinance under IC 8-1.5-3-3(a) that provides for the control of any or all of the city's storm water facilities by the board that controls the city's municipally owned utilities.

(3) For a county:

(A) the county executive; and

(B) the county surveyor.

SECTION 5. IC 8-1.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "department" means the following:

(1) For a consolidated city, the department of public works.

(2) For all other municipalities, the department of storm water management established under section 4 of this chapter.

(3) For a county, the department of storm water management established under section 4.5 of this chapter.

SECTION 6. IC 8-1.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section applies to all municipalities except a consolidated city.

(b) If the legislative body of a municipality adopts the provisions of this chapter by ordinance, a department of storm water management is established and is controlled by a board of directors.

(c) Except as provided in ~~subsection~~ **subsections (f) and (g)**, the board consists of three (3) directors. The executive of the municipality shall appoint the directors, not more than two (2) of whom may be of the same political party.

(d) Except as provided in ~~subsection~~ **subsections (f) and (g)**, the legislative body shall prescribe, by ordinance, the terms of the directors. However, the legislative body must prescribe the initial terms of the directors so that they will be staggered.

(e) The executive may remove a director at any time when, in the judgment of the executive, it is for the best interest of the department.

(f) If a second class city has a department of public sanitation under IC 36-9-25, the executive of the city may appoint the members of the board of sanitary commissioners as the board of directors of the department of storm water management. The terms of the members of the board of directors are the same as the terms of the members of the board of sanitary commissioners under IC 36-9-25-4.

(g) If a third class city:

(1) has a board that controls the city's municipally owned utilities under IC 8-1.5-3-3(a); and

(2) has adopted an ordinance under IC 8-1.5-3-3(a) that provides for the control of any or all of the city's storm water facilities by the board that controls the city's municipally owned utilities;

the members of the board that controls the city's municipally owned utilities shall serve as the board of directors of the department of storm water management, subject to any transition procedure specified in the ordinance under IC 8-1.5-3-3(b). The terms of the members of the board of directors are the same as the terms of the members of the board that controls the city's municipally owned utilities under IC 8-1.5-3-3(a), subject to the completion of any transition procedure specified in the ordinance under IC 8-1.5-3-3(b).

(h) A member of the board of directors of the department of storm water management who:

(1) is appointed under subsection (f); or

(2) is a member of the board under subsection (g) and receives a salary as a member of the board that controls the third class city's municipally owned utilities;

is not entitled to a salary for serving as a member of the board of directors of the department of storm water management. However, a member shall be reimbursed for necessary expenses incurred by the member in the performance of official duties.

SECTION 7. IC 8-1.5-5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) This section applies to a county.

(b) If the county executive adopts the provisions of this chapter by ordinance, a department of storm water management is established and is controlled by a board of directors.

(c) An ordinance adopted under this section shall provide for the appointment of:

(1) the members of the county executive; and

(2) the county surveyor;

as the board of directors of the department. The term of office of a member of the board who is appointed from the membership of the county executive is coextensive with the member's term of

office on the county executive. The term of the surveyor or the surveyor's designee as a member of the board is coextensive with the surveyor's term of office.

(d) A member of the board of directors is not entitled to a salary or per diem for serving as a member of the board of directors. However, a member shall be reimbursed for necessary expenses incurred by the member in the performance of official duties.

SECTION 8. IC 8-1.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The ~~legislative body shall, in the ordinance adopting the provisions of this chapter create~~ **creates** a special taxing district that includes the following:

(1) For a consolidated city, all of the territory of the county containing the consolidated city.

(2) For all other municipalities, all territory within the corporate boundaries of the municipality.

(3) For a county, all the territory in the county that is not located in a municipality.

(b) ~~As to each municipality to which this chapter applies, including a consolidated city,~~ All the territory within the district constitutes a special taxing district for the purpose of providing for the collection and disposal of storm water of the district in a manner that protects the public health and welfare and for the purpose of levying special benefit taxes for purposes of storm water collection and disposal. All ~~area~~ **territory** in the district and all ~~area~~ **territory** added to the district is considered to have received a special benefit from the storm water collection and disposal facilities of the district equal to or greater than the special taxes imposed on the ~~area by territory under~~ this chapter in order to pay all or part of the costs of such facilities.

SECTION 9. IC 8-1.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~(a)~~ The board has the powers and duties prescribed by IC 8-1.5-3-4(a). In addition, the board may:

(1) hold hearings following public notice;

(2) make findings and determinations;

(3) install, maintain, and operate a storm water collection and disposal system;

(4) make all necessary or desirable improvements of the grounds

and premises under its control; and

(5) issue and sell bonds of the district in the name of the **municipality unit served by the department** for the acquisition, construction, alteration, addition, or extension of the storm water collection and disposal system or for the refunding of any bonds issued by the board.

~~(b) The board has exclusive jurisdiction over the collection and disposal of storm water within the district.~~

SECTION 10. IC 8-1.5-5-7, AS AMENDED BY P.L.176-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems may be financed through:

- (1) proceeds of special taxing district bonds of the storm water district;
- (2) the assumption of liability incurred to construct the storm water system being acquired;
- (3) service rates;
- (4) revenue bonds; or
- (5) any other available funds.

(b) The board, after **holding a public hearing with notice given under IC 5-3-1 and obtaining the approval by of the legislative fiscal body of the municipality, unit served by the department**, may assess and collect user fees from all of the property of the storm water district for the operation and maintenance of the storm water system. **The amount of the user fees must be the minimum amount necessary for the operation and maintenance of the storm water system. The assessment and collection of user fees under this subsection by the board of a county must also be approved by the county executive.**

(c) The collection of the fees authorized by this section may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement of the affected property owner.

(d) The board shall use one (1) or more of the following factors to establish the fees authorized by this section:

- (1) A flat charge for each lot, parcel of property, or building.**
- (2) The amount of impervious surface on the property.**
- (3) The number and size of storm water outlets on the**

property.

(4) The amount, strength, or character of storm water discharged.

(5) The existence of improvements on the property that address storm water quality and quantity issues.

(6) The degree to which storm water discharged from the property affects water quality in the storm water district.

(7) Any other factors the board considers necessary.

(e) The board may exercise reasonable discretion in adopting different schedules of fees or making classifications in schedules of fees based on:

(1) variations in the costs, including capital expenditures, of furnishing services to various classes of users or to various locations;

(2) variations in the number of users in various locations; and

(3) whether the property is used primarily for residential, commercial, or agricultural purposes.

SECTION 11. IC 8-1.5-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) If the board acquires a storm water system and assumes the liability incurred by the seller to construct the storm water system, the principal and interest on the liability so assumed shall be paid from the bond and interest redemption account in the same manner as bonds of the district would be paid, and the board shall set aside sufficient revenues to comply with the requirements of the instrument creating the liability.

(b) A **municipality unit** acquiring a storm water system may not assume any liability for the payment of a secured debt or charge other than the obligation to apply the revenues in the manner prescribed in the ordinance.

(c) The board may issue bonds in exchange for, or satisfaction of, the liability assumed in the acquisition of a storm water system. The bonds so issued may not be issued at less than ninety-seven percent (97%) of the par value thereof in exchange for, or satisfaction of, the liability. Notwithstanding section 13(c) of this chapter, bonds issued in exchange for, or satisfaction of, the liability need not be sold in accordance with IC 5-1-11. However, the interest rate on such bonds may not exceed the average yield on municipal revenue bonds of comparable credit rating and maturity as of the end of the week

immediately preceding the issuance of the bonds.

SECTION 12. IC 8-1.5-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) All money received from bonds issued under this chapter shall be applied solely to the acquisition, construction, repair, and maintenance of the storm water system, the cost of the issuance of the bonds, and the creation of any reserve for the bonds.

(b) Any holder of the bonds may bring a civil action to compel performance of all duties required by this chapter of the board issuing the bonds or of any officer of the board, including the following:

- (1) Making and collecting reasonable and sufficient user fees lawfully established for service rendered by the storm water system.
- (2) Segregating the income and revenues of the department.
- (3) Applying the respective funds created under this chapter.

(c) If there is any default in the payment of the principal or interest of any of the bonds, a court having jurisdiction of the action may:

- (1) appoint an administrator or receiver to administer the storm water system on behalf of the **municipality unit served by the department** and the bondholders, with power to:

(A) charge and collect user fees lawfully established sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations outstanding against the storm water system; and

(B) apply the income and revenues in conformity with this chapter and the ordinance; or

- (2) declare the whole amount of the bonds due and payable and direct the sale of the storm water system.

Under a sale ordered under subdivision (2), the purchaser is vested with an indeterminate permit as defined in IC 8-1-2-1 to maintain and operate the storm water system to collect and dispose of storm water for the **municipality unit served by the department** and its citizens.

SECTION 13. IC 8-1.5-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) **This section applies to a municipality.**

(b) The reasonable cost and value of any service rendered to the municipality by the storm water system by furnishing storm water collection and disposal shall be:

- (1) charged against the municipality; and
- (2) paid for in ~~monthly installments~~ as the service accrues out of:
~~the:~~

- (A) ~~the~~ current revenues of the municipality, collected or in process of collection; ~~and or~~

- (B) ~~the~~ tax levy of the municipality made by it to raise money to meet its necessary current expenses.

~~(b)~~ (c) The compensation for the service provided to the municipality shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.

SECTION 14. IC 8-1.5-5-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.5. (a) This section applies to a county.**

(b) The reasonable cost and value of any service rendered to the county by the storm water system by furnishing storm water collection and disposal shall be:

- (1) charged against all the territory in the county, except territory within a municipality; and**

- (2) paid for as the service accrues out of:**

- (A) the current revenues of the county, collected or in process of collection; or**

- (B) the tax levy of the county made by the county to raise money to meet the county's necessary current expenses.**

(c) The compensation for the service provided to the county shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.

SECTION 15. IC 8-1.5-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. All real property, rights-of-way, or other property acquired by purchase or appropriation shall be taken and held in the name of the ~~municipality~~. **unit served by the department.**

SECTION 16. IC 8-1.5-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) To procure money to pay for the required property and the acquisition, erection, and construction of the proposed work, and in anticipation of the

collection of the special benefit tax, the board may issue, in the name of the ~~municipality~~, **unit served by the department**, special taxing district bonds of the storm water district. The bonds may not exceed the total estimated cost of the work and property to be acquired as provided for in the resolution, including:

- (1) all expenses necessarily incurred for supervision and inspection during the period of construction; and
- (2) expenses actually incurred preliminary to the acquiring of the necessary property and the construction of the work, including the cost of records, engineering expenses, publication of notices, salaries, and other expenses incurred, before and in connection with the acquiring of the property, the letting of the contract, and the sale of bonds.

(b) After adopting a resolution authorizing the bonds, the board shall certify a copy of the resolution to the ~~municipal~~ fiscal officer, who shall then prepare the bonds. The ~~municipal~~ executive shall execute the bonds, and the fiscal officer shall attest the bonds.

(c) The board may not issue bonds of the storm water district, payable by a special benefit property tax, when the total of the outstanding bonds of the district that are payable from a special benefit property tax, including the bonds already issued and to be issued, exceeds eight percent (8%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15. For purposes of this section, bonds are not considered to be outstanding bonds if the payment has been provided for by an irrevocable deposit in escrow of government obligations sufficient to pay the bonds when due or called for redemption.

(d) The bonds are not a corporate obligation or indebtedness of the ~~municipality~~ **unit** but are an indebtedness of the storm water district. The bonds and interest are payable:

- (1) out of a special benefit tax levied upon all of the property of the storm water district; or
- (2) by any other means including revenues, cash on hand, and cash in depreciation or reserve accounts.

(e) The bonds must recite the terms upon their face, together with the purpose for which they are issued.

SECTION 17. IC 8-1.5-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) To raise the

necessary revenues to pay for the bonds issued and the interest on the bonds, the board:

- (1) after approval by the ~~legislative fiscal~~ body of the ~~municipality~~, **unit served by the department**, shall levy a special benefit tax upon all the property of the storm water district in the amount necessary to meet and pay the principal of the bonds as they severally mature, together with all accruing interest; and
- (2) shall certify the tax levied each year to the fiscal ~~officers~~ **officer** of the ~~municipality and of the county in which the storm water district is located~~, **unit served by the department** at the same time ~~the levy of the municipality is and in the same manner as other levies of the unit are~~ certified.

The tax levied and certified shall be estimated and entered upon the tax duplicate and shall be collected and enforced in the same manner as state and county taxes are estimated, entered, and enforced.

(b) In fixing the amount of the necessary levy, the board:

- (1) shall consider the amount of revenues derived by the board from the operation of the storm water system under its jurisdiction above the amount of revenues required to pay the cost of operation and maintenance of the storm water system; and
- (2) may, in lieu of making the levy in this section, set aside by resolution a specific amount of the surplus revenues to be collected before maturity of the principal and interest of the bonds payable in the following calendar year.

(c) The special tax shall be deposited in the bond and interest redemption account.

SECTION 18. IC 8-1.5-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The board may not issue any bonds authorized by this chapter until it has secured the approval for the issuance of the bonds from the ~~legislative fiscal~~ body of the ~~municipality~~; **unit served by the department**.

(b) IC 6-1.1-20 applies to the issuance of bonds under this chapter which are or may be payable from the special benefit property tax.

SECTION 19. IC 8-1.5-5-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27. If the department:**

- (1) **uses private property for storm water collection or disposal; and**

(2) obtains the consent of the owner of the private property to maintain the private property;
the department shall maintain the private property.

SECTION 20. IC 8-1.5-5-28 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 28. A person may not be required to screen a storm water outfall if the pipe diameter of the storm water outfall is less than twenty-four (24) inches.**

SECTION 21. IC 13-11-2-25.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 25.8. For purposes of IC 13-18:**

(1) "Class I wetland" means an isolated wetland described by one (1) or both of the following:

(A) At least fifty percent (50%) of the wetland has been disturbed or affected by human activity or development by one (1) or more of the following:

- (i) Removal or replacement of the natural vegetation.**
- (ii) Disturbance or modification of the natural hydrology.**

(B) The wetland supports minimal wildlife habitat or hydrologic function because the wetland:

- (i) does not provide critical habitat for threatened or endangered species listed in accordance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);**
- (ii) is typified by low species diversity;**
- (iii) contains greater than fifty percent (50%) areal coverage of non-native invasive species;**
- (iv) does not support significant habitat or wildlife uses;**
or
- (v) does not possess significant hydrologic function;**

(2) "Class II wetland" means:

(A) an isolated wetland that is not a Class I or Class III wetland; or

(B) a type of wetland listed in subdivision (3)(B) that would meet the definition of Class I wetland if the wetland were not a rare or ecologically important type; and

(3) "Class III wetland" means an isolated wetland:

(A) that is located in a setting undisturbed or minimally

disturbed by human activity or development; or
(B) unless classified as a Class II wetland under subdivision (2)(B), that is of one (1) of the following rare and ecologically important types:

- (i) Acid bog.**
- (ii) Acid seep.**
- (iii) Circumneutral bog.**
- (iv) Circumneutral seep.**
- (v) Cypress swamp.**
- (vi) Dune and swale.**
- (vii) Fen.**
- (viii) Forested fen.**
- (ix) Forested swamp.**
- (x) Marl beach.**
- (xi) Muck flat.**
- (xii) Panne.**
- (xiii) Sand flat.**
- (xiv) Sedge meadow.**
- (xv) Shrub swamp.**
- (xvi) Sinkhole pond.**
- (xvii) Sinkhole swamp.**
- (xviii) Wet floodplain forest.**
- (xix) Wet prairie.**
- (xx) Wet sand prairie.**

SECTION 22. IC 13-11-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. "Clean Water Act", for purposes of **this chapter, IC 13-18-13, IC 13-18-22, and IC 13-18-23**, refers to:

- (1) 33 U.S.C. 1251 et seq.; and
- (2) regulations adopted under 33 U.S.C. 1251 et seq.

SECTION 23. IC 13-11-2-36.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 36.3. "Compensatory mitigation", for purposes of IC 13-18-22, means the:**

- (1) restoration; or**
- (2) creation;**

of wetlands to offset or compensate for a loss of wetlands resulting from an authorized wetland activity. Wetlands enlargement,

enhancement, and preservation may be considered compensatory mitigation on a case-by-case basis, particularly for Class III wetlands.

SECTION 24. IC 13-11-2-74.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 74.5. (a) "Exempt isolated wetland", for purposes of IC 13-18, means an isolated wetland that:

- (1) is a voluntarily created wetland unless:
 - (A) the wetland is approved by the department for compensatory mitigation purposes in accordance with a permit issued under Section 404 of the Clean Water Act;
 - (B) the wetland is reclassified as a state regulated wetland under IC 13-18-22-6(c); or
 - (C) the owner of the wetland declares, by a written instrument:
 - (i) recorded in the office of the recorder of the county or counties in which the wetland is located; and
 - (ii) filed with the department;that the wetland is to be considered in all respects to be a state regulated wetland;
- (2) exists as an incidental feature in or on:
 - (A) a residential lawn;
 - (B) a lawn or landscaped area of a commercial or governmental complex;
 - (C) agricultural land;
 - (D) a roadside ditch;
 - (E) an irrigation ditch; or
 - (F) a manmade drainage control structure;
- (3) is a fringe wetland associated with a private pond;
- (4) is, or is associated with, a manmade body of surface water of any size created by:
 - (A) excavating;
 - (B) diking; or
 - (C) excavating and diking;dry land to collect and retain water for or incidental to agricultural, commercial, industrial, or aesthetic purposes;
- (5) subject to subsection (b), is a Class I wetland with a delineation of one-half (1/2) acre or less;

(6) subject to subsection (c), is a Class II wetland with a delineation of one-fourth (1/4) acre or less;

(7) is located on land:

(A) subject to regulation under the United States Department of Agriculture wetland conservation rules, also known as Swampbuster, because of voluntary enrollment in a federal farm program; and

(B) used for agricultural or associated purposes allowed under the rules referred to in clause (A); or

(8) is constructed for reduction or control of pollution.

(b) The total acreage of Class I wetlands on a tract to which the exemption described in subsection (a)(5) may apply is limited to the larger of:

(1) the acreage of the largest individual isolated wetland on the tract that qualifies for the exemption described in subsection (a)(5); and

(2) fifty percent (50%) of the cumulative acreage of all individual isolated wetlands on the tract that would qualify for the exemption described in subsection (a)(5) but for the limitation of this subsection.

(c) The total acreage of Class II wetlands on a tract to which the exemption described in subsection (a)(6) may apply is limited to the larger of:

(1) the acreage of the largest individual isolated wetland on the tract that qualifies for the exemption described in subsection (a)(6); and

(2) thirty-three and one-third percent (33 1/3%) of the cumulative acreage of all individual isolated wetlands on the tract that would qualify for the exemption described in subsection (a)(6) but for the limitation of this subsection.

SECTION 25. IC 13-11-2-112.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 112.5. "Isolated wetland", for purposes of IC 13-18, is a wetland that is not subject to regulation under Section 404(a) of the Clean Water Act.

SECTION 26. IC 13-11-2-130.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 130.5. "Periodic vehicle inspection program", for purposes of IC 13-17-5, means a program

requiring a motor vehicle registered in a county to undergo a periodic test of emission characteristics and be repaired and retested if the motor vehicle fails the emissions test. The term includes entering into and managing contracts for inspection stations.

SECTION 27. IC 13-11-2-166.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 166.5. "Pond", for purposes of IC 13-18:**

(1) means:

(A) a natural surface water that is smaller than ten (10) acres at the ordinary high water mark, as defined in 33 CFR 328.3; or

(B) a manmade body of surface water of any size created by:

(i) excavating;

(ii) diking; or

(iii) excavating and diking;

dry land to collect and retain water for or incidental to agricultural, commercial, industrial, or aesthetic purposes; and

(2) includes water in saturated soils associated with the body of water.

SECTION 28. IC 13-11-2-221.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 221.5. "State regulated wetland", for purposes of IC 13-18, means an isolated wetland located in Indiana that is not an exempt isolated wetland.**

SECTION 29. IC 13-11-2-233.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 233.5. "Tract", for purposes of this chapter, means any area of land that is under common ownership and is contained within a continuous border.**

SECTION 30. IC 13-11-2-245.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 245.5. "Voluntarily created wetland", for purposes of this chapter, means an isolated wetland that:**

(1) was restored or created in the absence of a governmental order, directive, or regulatory requirement concerning the restoration or creation of the wetland; and

(2) has not been applied for or used as compensatory mitigation or another regulatory purpose that would have the effect of subjecting the wetland to regulation as waters by:

(A) the department; or

(B) another governmental entity.

SECTION 31. IC 13-11-2-265, AS AMENDED BY P.L.183-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 265. (a) "Waters", for purposes of water pollution control laws and environmental management laws, means:

(1) the accumulations of water, surface and underground, natural and artificial, public and private; or

(2) a part of the accumulations of water;

that are wholly or partially within, flow through, or border upon Indiana.

(b) The term "waters" does not include:

(1) an exempt isolated wetland;

(2) a private pond; or

(3) an off-stream pond, reservoir, wetland, or other facility built for reduction or control of pollution or cooling of water before discharge. ~~unless the discharge from the pond, reservoir, or facility causes or threatens to cause water pollution.~~

SECTION 32. IC 13-11-2-265.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 265.6. "Wetland activity", for purposes of IC 13-18-22, means the discharge of:**

(1) dredged; or

(2) fill;

material into an isolated wetland.

SECTION 33. IC 13-11-2-265.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 265.7. "Wetlands", for purposes of IC 13-18, means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil**

conditions. Wetlands generally include:

- (1) swamps;**
- (2) marshes;**
- (3) bogs; and**
- (4) similar areas.**

SECTION 34. IC 13-11-2-265.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 265.8. "Wetlands delineation" or "delineation", for purposes of section 74.5 of this chapter, means a technical assessment:**

- (1) of whether a wetland exists on an area of land; and**
- (2) if so, of the type and quality of the wetland based on the presence or absence of wetlands characteristics, as determined consistently with the Wetlands Delineation Manual, Technical Report Y-87-1 of the United States Army Corps of Engineers.**

SECTION 35. IC 13-14-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) Except as provided in subsection (b), the department shall provide notice in the Indiana Register of the first public comment period required by section 2 of this chapter. A notice provided under this section must do the following:**

- (1) Identify the authority under which the proposed rule is to be adopted.**
- (2) Describe the subject matter and the basic purpose of the proposed rule. The description required by this subdivision must include a listing of all alternatives being considered by the department at the time of the notice and must set forth the basis for each alternative.**
- (3) Describe the relevant statutory or regulatory requirements or restrictions relating to the subject matter of the proposed rule that exist before the adoption of the proposed rule.**
- (4) Request the submission of alternative ways to achieve the purpose of the proposed rule.**
- (5) Request the submission of comments, including suggestions of specific language for the proposed rule.**
- (6) Include a detailed statement of the issue to be addressed by adoption of the proposed rule.**

(b) This section does not apply to rules adopted under IC 13-18-22-2, IC 13-18-22-3, or IC 13-18-22-4.

SECTION 36. IC 13-17-5-6.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.7. (a) A person may not be charged a fee for having a motor vehicle tested under this chapter.**

(b) This section expires January 1, 2007.

SECTION 37. IC 13-17-5-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9. (a) After December 31, 2006, the board may not adopt a rule under air pollution control laws that requires motor vehicles to undergo a periodic test of emission characteristics in the following counties:**

(1) A county having a population of more than seventy thousand (70,000) but less than seventy-one thousand (71,000).

(2) A county having a population of more than ninety thousand (90,000) but less than one hundred thousand (100,000).

(b) After December 31, 2006, 326 IAC 13-1.1 is void to the extent it applies to a county referred to in subsection (a).

(c) Unless the budget agency approves a periodic vehicle inspection program for a county referred to in subsection (a), the board shall amend 326 IAC 13-1.1 so that it does not apply after December 31, 2006, to a county referred to in subsection (a).

(d) The budget agency, after review by the budget committee, may approve in writing the implementation of a periodic vehicle inspection program for one (1) or more counties described in subsection (a) only if the budget agency determines that the implementation of a periodic vehicle inspection program in the designated counties is necessary to avoid a loss of federal highway funding for the state or a political subdivision. The approval must specify the counties to which the periodic vehicle inspection program applies and the time during which the periodic vehicle inspection program must be conducted in each designated county. The budget agency, after review by the budget committee, shall withdraw an approval given under this subsection for a periodic vehicle inspection program in a county if the budget agency

determines that the suspension of the periodic vehicle inspection program will not adversely affect federal highway funding for the state or a political subdivision.

SECTION 38. IC 13-18-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 22. State Regulated Wetlands

Sec. 1. (a) Except as provided in subsection (b), a person proposing a wetland activity in a state regulated wetland must obtain a permit under this chapter to authorize the wetland activity.

(b) A permit is not required for the following wetland activities:

(1) The discharge of dirt, sand, rock, stone, concrete, or other inert fill materials in a de minimis amount.

(2) A wetland activity at a surface coal mine for which the department of natural resources has approved a plan to:

(A) minimize, to the extent practical using best technology currently available, disturbances and adverse effects on fish and wildlife;

(B) otherwise effectuate environmental values; and

(C) enhance those values where practicable.

(3) Any activity listed under Section 404(f) of the Clean Water Act, including:

(A) normal farming, silviculture, and ranching activities, such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

(B) maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

(C) construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

(D) construction of temporary sedimentation basins on a construction site that does not include placement of fill material into the navigable waters; and

(E) construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment,

where the roads are constructed and maintained, in accordance with best management practices, to assure that:

- (i) flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired;
- (ii) the reach of the navigable waters is not reduced; and
- (iii) any adverse effect on the aquatic environment will be otherwise minimized.

(c) The goal of the permitting program for wetland activities in state regulated wetlands is to:

- (1) promote a net gain in high quality isolated wetlands; and
- (2) assure that compensatory mitigation will offset the loss of isolated wetlands allowed by the permitting program.

Sec. 2. (a) The board may adopt rules under IC 4-22-2 and IC 13-14 not later than February 1, 2004, to implement the part of the definition of Class I wetland under IC 13-11-2-25.8(1)(B).

(b) Before the adoption of rules by the board under subsection (a), the department shall determine the class of a wetland in a manner consistent with the definitions of Class I, II, and III wetlands in IC 13-11-2-25.8.

Sec. 3. (a) An individual permit is required to authorize a wetland activity in a Class III wetland.

(b) Except as provided in section 4(a) of this chapter, an individual permit is required to authorize a wetland activity in a Class II wetland.

(c) The board shall adopt rules under IC 4-22-2 and IC 13-14 not later than June 1, 2004, to govern the issuance of individual permits by the department under subsections (a) and (b).

Sec. 4. (a) A general permit is authorized for wetland activities with minimal impact in Class II wetlands, including the activities analogous to the nationwide permit program (as published in 67 Fed. Reg. 2077-2089 (2002)).

(b) A general permit is authorized for wetland activities in Class I wetlands.

(c) The board shall adopt rules under IC 4-22-2 and IC 13-14 not later than February 1, 2004, to establish and implement the general permits authorized in subsections (a) and (b).

Sec. 5. (a) The rules adopted under section 3 of this chapter:

(1) must require that the applicant demonstrate, as a prerequisite to the issuance of the permit, that wetland activity:

(A) is reasonably necessary or appropriate to achieve a legitimate use proposed by the applicant on the property on which the wetland is located; and

(B) for a Class III wetland, is without practical alternative and will be accompanied by taking steps that are practicable and appropriate to minimize potential adverse impacts of the discharge on the aquatic ecosystem of the wetland;

(2) except as provided in subsection (c), must establish that compensatory mitigation will be provided as set forth in section 6 of this chapter to reasonably offset the loss of wetlands allowed by the permits; and

(3) may prescribe additional conditions that are reasonable and necessary to carry out the purposes of this chapter.

(b) The rules adopted under section 4 of this chapter must require, as a prerequisite to the applicability of the general permit by rule to a specific wetland activity, that the person proposing the discharge submit to the department a notice of intent to be covered by the general permit by rule that:

(1) identifies the wetlands to be affected by the wetland activity; and

(2) except as provided in subsection (c), provides a compensatory mitigation plan as set forth in section 6 of this chapter to reasonably offset the loss of wetlands allowed by the general permit.

(c) Under subsections (a) and (b), the rules adopted under sections 3 and 4 of this chapter may provide for exceptions to compensatory mitigation in specific, limited circumstances.

(d) For purposes of subsection (a)(1)(A):

(1) a resolution of the executive of the county or municipality in which the wetland is located; or

(2) a permit or other approval from a local government entity having authority over the proposed use of the property on which the wetland is located;

that includes a specific finding that the wetland activity is reasonably necessary or appropriate to achieve the intended use of

the property is considered conclusive evidence of that fact.

Sec. 6. (a) Except as otherwise specified in subsection (b), compensatory mitigation shall be provided in accordance with the following table:

Wetland Class	Replacement Class	On-site Ratio	Off-site Ratio
Class I	Class II or III	1 to 1	1 to 1
Class I	Class I	1.5 to 1	1.5 to 1
Class II	Class II or III	1.5 to 1	2 to 1
		Nonforested	Nonforested
		2 to 1	2.5 to 1
		Forested	Forested
Class III	Class III	2 to 1	2.5 to 1
		Nonforested	Nonforested
		2.5 to 1	3 to 1
		Forested	Forested

(b) The compensatory mitigation ratio shall be lowered to one to one (1:1) if the compensatory mitigation is completed before the initiation of the wetland activity.

(c) The off-site location of compensatory mitigation must be within:

(1) the same eight (8) digit U.S. Geological Service hydrologic unit code; or

(2) the same county;

as the isolated wetlands subject to the authorized wetland activity.

(d) Exempt isolated wetlands may be used to provide compensatory mitigation for wetlands activities in state regulated wetlands. An exempt isolated wetland that is used to provide compensatory mitigation becomes a state regulated wetland.

Sec. 7. (a) The department shall:

(1) administer the permit programs established by this chapter; and

(2) review and issue decisions on applications for permits to undertake wetland activities in state regulated wetlands in accordance with the rules issued by the board under this chapter.

(b) Before the adoption of rules by the board under this chapter, the department shall:

(1) issue individual permits under this chapter consistent with

the general purpose of this chapter; and

(2) for wetland activities in Class I wetlands, issue permits under this subsection:

(A) that are simple, streamlined, and uniform;

(B) that do not require development of site specific provisions; and

(C) promptly upon submission by the applicant to the department of a notice of registration for a permit.

(c) Not later than June 1, 2003, the department shall make available to the public:

(1) a form for use in applying for a permit under subsection (b)(1); and

(2) a form for use in submitting a notice of registration for a permit to undertake a wetland activity in a Class I wetland under subsection (b)(2).

Sec. 8. (a) The department shall make a decision to issue or deny an individual permit under section 3 or 7(b)(1) of this chapter not later than one hundred twenty (120) days after receipt of the application. If the department fails to make a decision on a permit application by that deadline, a permit is considered to have been issued by the department in accordance with the application.

(b) Except as provided in subsection (d), a general permit under section 4 of this chapter is considered to have been issued to an applicant on the thirty-first day after the department receives a notice of intent of the permit if the department has not previously authorized the wetland activity.

(c) Except as provided in subsection (d), a permit to undertake a wetland activity in a Class I wetland under section 7(b)(2) of this chapter is considered to have been issued to an applicant on the thirty-first day after the department receives a notice of registration submitted under section 7(b)(2) of this chapter if the department has not previously authorized the wetland activity.

(d) The department may deny a registration for a permit under subsection (b) or (c) before the period specified in subsection (b) or (c) expires.

(e) The department must support a denial under subsection (a) or (d) by a written statement of reasons.

Sec. 9. (a) The owner of a Class III wetland may petition the board for designation of the wetland as an outstanding state

protected wetland. Upon verification by the board that the wetland is a Class III wetland and that the petitioner is the owner of the wetland, the board shall conduct a proceeding under IC 4-22-2 and IC 13-14 to adopt a rule designating the wetland as an outstanding state protected wetland.

(b) A rule adopted by the board under subsection (a) must specifically identify each wetland to be designated as an outstanding state protected wetland, including:

- (1) the wetland type;
- (2) a legal description of the wetland as delineated; and
- (3) other information considered necessary by the board.

(c) The owner of a Class III wetland designated as an outstanding state protected wetland under this section shall:

(1) not cause or allow any anthropogenic activities on the property on which the wetland is located that may adversely affect or degrade the wetland, except for activities with minimal and short term effect, such as construction of an observation pathway or installation of an underground pipeline that are:

- (A) authorized by rules adopted by the board; or
- (B) approved by the department in the absence of rules under clause (A); and

(2) provide for the long term assurance of the protections described in subdivision (1) through:

- (A) a restrictive covenant that is recorded with respect to the property on which the delineated wetland is located; or
- (B) a grant of title to or a conservation easement in the property on which the delineated wetland is located to:
 - (i) the department of natural resources; or
 - (ii) a nonprofit entity with demonstrated ability in the maintenance and protection of wetlands.

(d) Notwithstanding the designation of a wetland under this section by the board as an outstanding state protected wetland, the owner of a Class III wetland may petition the board for rescission of the designation if the owner can demonstrate important social or economic needs that warrant adverse effects to the wetland. In its review of the petition, the board shall give great weight to a resolution of the legislative body of the municipality or county in which the Class III wetland is located describing important social

or economic needs, the accomplishment of which would necessitate adverse effects to the wetland.

Sec. 10. The department has no authority over the:

- (1) filling;**
- (2) draining; or**
- (3) elimination by other means;**

before January 1, 2003, of a wetland that would have been an isolated wetland.

Sec. 11. When land referred to in IC 13-11-2-74.5(a)(7) is no longer subject to United States Department of Agriculture wetland conservation rules:

- (1) isolated wetlands located on the land are subject to this chapter; and**
- (2) any past wetland activities in the isolated wetlands located on the land become subject to this chapter, unless the wetland activities were in compliance with United States Department of Agriculture wetland conservation rules.**

SECTION 39. IC 13-18-23 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 23. Department Action on Certification Applications

Sec. 1. (a) The department shall:

- (1) make a final determination on an application for a certification under Section 401 of the Clean Water Act not later than one hundred twenty (120) days after its receipt of a complete application; and**
- (2) include in its notice of the final determination to the applicant a statement of reasons for the final determination.**

(b) A failure by the department to act within the period specified in subsection (a)(1) constitutes a waiver of the certification.

SECTION 40. IC 36-9-27-114 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 114. (a) This section applies to a county that:

- (1) receives notification from the department of environmental management that the county will be subject to regulation under 327 IAC 15-13; and**
- (2) has not adopted an ordinance to adopt the provisions of**

IC 8-1.5-5.

(b) As used in this section, "storm water improvements" means storm sewers, drains, storm water retention or detention structures, dams, or any other improvements used for the collection, treatment, and disposal of storm water.

(c) The drainage board of a county may establish fees for services provided by the board to address issues of storm water quality and quantity, including the costs of constructing, maintaining, operating, and equipping storm water improvements.

(d) Fees established under this chapter after a public hearing with notice given under IC 5-3-1 are presumed to be just and equitable.

(e) The fees are payable by the owner of each lot, parcel of real property, or building that uses or is served by storm water improvements that address storm water quality and quantity. Unless the board finds otherwise, the storm water improvements are considered to benefit every lot, parcel of real property, or building that uses or is served by the storm water improvements, and the fees shall be billed and collected accordingly.

(f) The board shall use one (1) or more of the following factors to establish the fees:

- (1) A flat charge for each lot, parcel of property, or building.
- (2) The amount of impervious surface on the property.
- (3) The number and size of storm water outlets on the property.
- (4) The amount, strength, or character of storm water discharged.
- (5) The existence of improvements on the property that address storm water quality and quantity issues.
- (6) The degree to which storm water discharged from the property affects water quality in the district.
- (7) Any other factors the board considers necessary.

(g) The board may exercise reasonable discretion in adopting different schedules of fees, or making classifications in schedules of fees, based on:

- (1) variations in the costs, including capital expenditures, of addressing storm water quality and quantity for various classes of users or for various locations;
- (2) variations in the number of users in various locations; and

- (3) whether the property is used primarily for residential, commercial, or agricultural purposes.**

SECTION 41. [EFFECTIVE UPON PASSAGE] (a) The environmental quality service council shall do the following:

- (1) Monitor the implementation of SECTIONS 21 through 25, 27 through 35, 38, and 39 of this act.**

- (2) Review the role of the department of environmental management with respect to action on requests under Section 401 of the Clean Water Act (33 U.S.C. 1341) for certifications concerning projects subject to permit requirements under Section 404 of the Clean Water Act (33 U.S.C. 1344), and recommend whether statutory direction is appropriate or necessary in defining that role.**

- (3) Complete its consideration of the options for statutory definition of "private pond" as used in the definition of "waters" in IC 13-11-2-265, as amended by this act, and:**

- (A) recommend an option; and**

- (B) include with the recommendation a statement of rationale for the recommendation.**

- (4) Evaluate the tensions between existing programs for wetlands protection and for local drainage and recommend principles and policies for ameliorating those tensions, taking into consideration the rationale and objectives for both programs.**

- (5) Submit its final report on the matters described in subdivisions (1) through (4) before November 1, 2003, to:**

- (A) the governor; and**

- (B) the executive director of the legislative services agency.**

(b) The environmental quality service council shall:

- (1) conduct an ongoing evaluation of the implementation of the permit program for state regulated wetlands under IC 13-18-22, as added by this act;**

- (2) recommend any adjustments to the program referred to in subdivision (1) that are considered advisable to improve the operation and effectiveness of the program, consistent with the purpose of providing an efficient permitting process and enhancing the attainment of an overall goal of no net loss of state regulated wetlands; and**

- (3) submit its final report on the matters described in**

subdivisions (1) and (2) before November 1, 2005, to:
 (A) the governor; and
 (B) the executive director of the legislative services agency.
 (c) This SECTION expires January 1, 2006.
 SECTION 42. An emergency is declared for this act.

P.L.283-2003

[S.337. Vetoed by the Governor May 8, 2003.
 Passed over veto March 4, 2004.]

AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-4-31.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 31.4. Native American Indian Affairs Commission

Sec. 1. As used in this chapter, "commission" refers to the Native American Indian affairs commission established by section 4 of this chapter.

Sec. 2. As used in this chapter, "department" refers to the department of workforce development.

Sec. 3. As used in this chapter, "Native American Indian" means an individual who is at least one (1) of the following:

- (1) An Alaska native as defined in 43 U.S.C. 1602(b).
- (2) An Indian as defined in 25 U.S.C. 450b(d).
- (3) A native Hawaiian as defined in 20 U.S.C. 7912(1).

Sec. 4. The Native American Indian affairs commission is established.

Sec. 5. (a) The commission consists of fifteen (15) voting members and two (2) nonvoting members. The voting members of the commission consist of the following:

- (1) Six (6) Native American Indians, each from a different

geographic region of Indiana.

(2) Two (2) Native American Indians who have knowledge in Native American traditions and spiritual issues.

(3) The commissioner of the department of correction or the commissioner's designee.

(4) The commissioner of the commission for higher education or the commissioner's designee.

(5) The commissioner of the state department of health or the commissioner's designee.

(6) The secretary of the office of family and social services or the secretary's designee.

(7) The director of the department of natural resources or the director's designee.

(8) The state superintendent of public instruction or the superintendent's designee.

(9) The commissioner of the department of workforce development or the commissioner's designee.

(b) The nonvoting members of the commission consist of the following:

(1) One (1) member of the house of representatives appointed by the speaker of the house of representatives.

(2) One (1) member of the senate appointed by the president pro tempore of the senate.

(c) The governor shall appoint each Native American Indian member of the commission to a term of four (4) years, and any vacancy occurring shall be filled by the governor for the unexpired term. Before appointing a Native American Indian member to the commission, the governor shall solicit nominees from Indiana associations that represent Native American Indians in the geographic region from which the member will be selected. Not more than one (1) member may represent the same tribe or Native American Indian organization or association.

(d) A member of the commission may be removed by the member's appointing authority.

Sec. 6. The affirmative votes of at least eight (8) members of the commission are required for the commission to take any official action, including public policy recommendations and reports.

Sec. 7. (a) The department shall provide staff and administrative support for the commission.

(b) Expenses incurred under this chapter shall be paid from funds appropriated to the department.

(c) The governor shall appoint a voting member of the commission to serve as the commission's chairperson.

Sec. 8. The commission shall study problems common to Native American Indian residents of Indiana in the areas of employment, education, civil rights, health, and housing. The commission may make recommendations to appropriate federal, state, and local governmental agencies concerning the following:

(1) Health issues affecting Native American Indian communities, including data collection, equal access to public assistance programs, and informing health officials of cultural traditions relevant to health care.

(2) Cooperation and understanding between the Native American Indian communities and other communities throughout Indiana.

(3) Cultural barriers to the educational system, including barriers to higher education and opportunities for financial aid and minority scholarships.

(4) Inaccurate information and stereotypes concerning Native American Indians, including the accuracy of educational curriculum.

(5) Measures to stimulate job skill training and related workforce development, including initiatives to assist employers to overcome communication and cultural differences.

(6) Programs to encourage the growth and support of Native American Indian owned businesses.

(7) Public awareness of issues affecting the Native American Indian communities.

(8) Issues concerning preservation and excavation of Native American Indian historical and archeology sites, including reburial of Native American Indians.

(9) Measures that could facilitate easier access to state and local government services by Native American Indians.

Sec. 9. The commission may not study or make recommendations on the following issues:

(1) Negotiations between a tribe and the state or federal government concerning tribal sovereignty.

(2) Gaming on tribal land.

SECTION 2. IC 14-21-1-25.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 25.5. (a) If a Native American Indian burial ground is discovered, the department shall immediately provide notice to the Native American Indian affairs commission established by IC 4-4-31.4.**

(b) If Native American Indian human remains are removed from a burial ground, the department shall provide the following to the Native American Indian affairs commission:

(1) Any written findings or reports that result from the analysis and study of the human remains.

(2) Written notice to the Native American Indian affairs commission that the analysis and study of the human remains are complete.

(c) After receiving written notice under subsection (b)(2), the Native American Indian affairs commission shall make recommendations to the department regarding the final disposition of the Native American Indian human remains.

SECTION 3. [EFFECTIVE JUNE 1, 2003] **(a) As used in this SECTION, "commission" refers to the Native American Indian affairs commission established by IC 4-4-31.4-4, as added by this act.**

(b) The governor shall make the initial appointments to the commission not later than July 1, 2003. In making an initial appointment, the governor shall indicate the length of the term for which the individual is appointed.

(c) Notwithstanding IC 4-4-31.4-5(c), as added by this act, the initial terms of office for the eight (8) individuals appointed to the commission by the governor are as follows:

(1) Two (2) members appointed under IC 4-4-31.4-5(a)(1), as added by this act, for a term of one (1) year.

(2) One (1) member appointed under IC 4-4-31.4-5(a)(1), as added by this act, and one (1) member appointed under IC 4-4-31.4-5(a)(2), as added by this act, for a term of two (2) years.

(3) Two (2) members appointed under IC 4-4-31.4-5(a)(1), as added by this act, for a term of three (3) years.

(4) One (1) member appointed under IC 4-4-31.4-5(a)(1), as

added by this act, for a term of four (4) years.

(5) One (1) member appointed under IC 4-4-31.4-5(a)(2), as added by this act, for a term of four (4) years.

(d) The initial terms begin July 1, 2003.

(e) This SECTION expires July 1, 2007.

SECTION 4. An emergency is declared for this act.

CERTIFICATE

INDIANA GENERAL ASSEMBLY

SS:

STATE OF INDIANA

We, the undersigned, do hereby certify that P.L.281-2003, P.L.282-2003, and P.L.283-2003 of the First Regular Session of the One Hundred Thirteenth General Assembly of the State of Indiana have been compared with the enrolled acts from which they were taken and have been found correctly printed.

Signed in the State of Indiana, this 13th day of April, 2004.



B. Patrick Bauer
Speaker, House of Representatives



Robert D. Garton
President Pro Tempore, Senate

Seal

ACTS 2004

Laws enacted by the

113th GENERAL ASSEMBLY

at the

**SECOND REGULAR SESSION
(2004)**

By the authority of
INDIANA LEGISLATIVE COUNCIL
(IC 2-6-1.5)

Office of Code Revision
Legislative Services Agency

PREFACE TO 2004 ACTS

ARRANGEMENT

This year's edition of the Acts of Indiana includes all laws from the Second Regular Session of the 113th General Assembly. The laws are arranged into two categories: first, laws of a permanent nature that amend the Indiana Code or laws that are temporary or special in nature and that do not amend the Code; and second, joint resolutions.

Public Law 97 of the 2004 Second Regular Session of the 113th General Assembly (P.L.97-2004) is a technical, nonsubstantive act to correct technical errors in Indiana's statutory law. Public Law 98 of the 2004 Second Regular Session of the 113th General Assembly (P.L.98-2004) is a nonsubstantive act to recodify Title 33 of the Indiana Code, concerning courts and court officers.

The text of all other laws enacted during the Second Regular Session is arranged, insofar as possible, in order in which the governor signed the bills into law or the order in which laws not signed and not vetoed by the governor took effect.

PRINTING CODE

A special printing code has been used in publishing the session laws in order that the reader may determine at a glance the specific changes made by any amendment. The following statement appeared at the top of each bill:

PRINTING CODE: Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 General Assembly.

Upon the recommendation of the Code Revision Commission, the Legislative Council authorized a change in the style in which bills are printed to highlight the manner in which "blind amendments" are resolved in the technical correction bill prepared by the Code Revision Commission. A "blind amendment" occurs when two or more enrolled acts amend the same section of law but fail to indicate how they are to be read together. P.L.97-2004 (SEA 106-2004), the technical correction bill prepared for the 2004 Session of the General Assembly, uses an *italic typeface* to indicate that one or more words contained in a law enacted in 2003 were absent from other versions the law enacted in the same session. P.L.97-2004 (SEA 106-2004) in 2004 resolves the differences by striking superfluous words and inserting additional words as needed to harmonize the various versions of the law.

This system is intended to make the session laws more usable to the researcher by eliminating the need to compare each amendment against the text of the prior law in order to determine exactly what changes the General Assembly made.

Of course, these typefaces are intended only as a tool to indicate to the reader the text of the prior law that was deleted by amendment and to highlight any new text that was added by amendment. They are

not a permanent part of the law itself. In reproducing or quoting the law, it is unnecessary to retain these typefaces; instead, all stricken text may be deleted and all boldface and italic may be reproduced in regular type.

PUBLIC LAW CITATION FORM

The public law citation form incorporates the year the public law was enacted as a part of the public law number. For example, Public Law 1 enacted by the 113th Second Regular Session is cited as P.L.1-2004.

CERTIFICATION

IC 2-6-1.5 requires the Indiana Legislative Council to supervise the preparation, indexing, and distribution of the session laws. Under IC 2-6-1.5, the Speaker of the House of Representatives and President Pro Tempore of the Senate must certify that the printed session laws have been compared with the enrolled acts and joint resolutions and have been found correct. The certification immediately follows the text of the session laws in Volume III.

CASH STATEMENT

Article 10, Section 4 of the Constitution of the State of Indiana requires that an "accurate statement of the receipts and expenditures of the public money, shall be published with the laws of each regular session of the General Assembly". The statement for the current year appears in this publication following the certification of the session laws.

TABLES

There are two citation tables at the end of Volume III, offset from the text by a green divider. The Table of Citations Affected sets out each section of the Code that has been affected by legislation enacted at the Second Regular Session of the 113th General Assembly. The Enrolled Act Number to Public Law Number Table provides cross-references from House and Senate bill numbers to public law numbers for the Second Regular Session of the 113th General Assembly.

INDEX

Immediately following the tables in Volume III is a subject index for the legislation enacted at the Second Regular Session of the 113th General Assembly.

LAWS OF INDIANA

passed at the
SECOND REGULAR SESSION
113TH GENERAL ASSEMBLY

P.L.1-2004
[S.1. Approved December 12, 2003.]

AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.141-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

- (1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.
- (2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- (3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.
- (4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.

(9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(20) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(22) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(23) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(24) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(25) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(26) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(27) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(28) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

- (1) accept the rule for filing; and
- (2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

- (1) The effective date of the statute delegating authority to the agency to adopt the rule.
- (2) The date and time that the rule is accepted for filing under subsection (e).
- (3) The effective date stated by the adopting agency in the rule.
- (4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

- (1) sections 24 through 36 of this chapter; or
- (2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

- (1) The expiration date stated by the adopting agency in the rule.
- (2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 2. IC 5-13-10.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The treasurer of state may invest or reinvest funds that are held by the treasurer and that are available for investment in obligations issued by any of the following:

(1) Agencies or instrumentalities of the United States government.

(2) Federal government sponsored enterprises.

(3) The Indiana bond bank, if the obligations are secured by tax anticipation time warrants or notes that:

(A) are issued by a political subdivision (as defined in IC 36-1-2-13); and

(B) have a maturity date not later than the end of the calendar year following the year of issuance.

SECTION 3. IC 6-1.1-1-8.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.7. "Mobile home" has the meaning set forth in IC 6-1.1-7-1.**

SECTION 4. IC 6-1.1-4-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 35. (a) This section applies to a county other than a county subject to section 32 of this chapter.**

(b) This section applies to a general reassessment of real property conducted under section 4(a) of this chapter that is scheduled to become effective for property taxes first due and payable in 2003.

(c) As used in this section, "department" refers to the department of local government finance.

(d) As used in this section, "reassessment official" means any of the following:

(1) A county assessor.

(2) A township assessor.

(3) A township trustee-assessor.

(e) If:

(1) the department determines that a county's reassessment officials are unable to complete the reassessment in a timely manner; or

(2) the department determines that a county's reassessment officials are likely to complete the reassessment in an inaccurate manner;

the department may order a state conducted reassessment in the county. The department may consider a reassessment in a county untimely if the county does not submit the county's equalization

study to the department in the manner prescribed under 50 IAC 14 before October 20, 2003. The department may consider the reassessment work of a county's reassessment officials inaccurate if the department determines from a sample of the assessments completed in the county that there is a variance exceeding ten percent (10%) between the total assessed valuation of the real property within the sample and the total assessed valuation that would result if the real property within the sample were valued in the manner provided by law.

(f) If the department orders a state conducted reassessment in a county, the department shall assume the duties of the county's reassessment officials. Notwithstanding sections 15 and 17 of this chapter, a reassessment official in a county subject to an order issued under this section may not assess property or have property assessed for the general reassessment. Until the state conducted reassessment is completed under this section, the reassessment duties of a reassessment official in the county are limited to providing the department or a contractor of the department the support and information requested by the department or the contractor.

(g) Before assuming the duties of a county's reassessment officials, the department shall transmit a copy of the department's order requiring a state conducted reassessment to the county's reassessment officials, the county fiscal body, the county auditor, and the county treasurer. Notice of the department's actions must be published one (1) time in a newspaper of general circulation in the county. The department is not required to conduct a public hearing before taking action under this section.

(h) Township and county officials in a county subject to an order issued under this section shall, at the request of the department or the department's contractor, make available and provide access to all:

- (1) data;
- (2) records;
- (3) maps;
- (4) parcel record cards;
- (5) forms;
- (6) computer software systems;
- (7) computer hardware systems; and

(8) other information;
related to the reassessment of real property in the county. The information described in this subsection must be provided at no cost to the department or the contractor of the department. A failure to provide information requested under this subsection constitutes a failure to perform a duty related to a general reassessment and is subject to IC 6-1.1-37-2.

(i) The department may enter into a contract with a professional appraising firm to conduct a reassessment under this section. If a county or a township located in the county entered into a contract with a professional appraising firm to conduct the county's reassessment before the department orders a state conducted reassessment in the county under this section, the contract:

(1) is as valid as if it had been entered into by the department;
and

(2) shall be treated as the contract of the department.

(j) After receiving the report of assessed values from the appraisal firm acting under a contract described in subsection (i), the department of local government finance shall give notice to the taxpayer and the county assessor, by mail, of the amount of the reassessment. The notice of reassessment:

(1) is subject to appeal by the taxpayer under section 37 of this chapter; and

(2) must include a statement of the taxpayer's rights under section 37 of this chapter.

(k) The department shall forward a bill for services provided under a contract described in subsection (i) to the auditor of the county in which the state conducted reassessment occurs. The county shall pay the bill under the procedures prescribed by subsection (l).

(l) A county subject to an order issued under this section shall pay the cost of a contract described in subsection (i), without appropriation, from the county's property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under the contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

(1) submits to the department a fully itemized, certified bill in the form required by IC 5-11-10-1 for the costs of the work

performed under the contract;

(2) obtains from the department:

(A) approval of the form and amount of the bill; and

(B) a certification that the billed goods and services have been received and comply with the contract; and

(3) files with the county auditor:

(A) a duplicate copy of the bill submitted to the department;

(B) proof of the department's approval of the form and amount of the bill; and

(C) the department's certification that the billed goods and services have been received and comply with the contract.

The department's approval and certification of a bill under subdivision (2) shall be treated as conclusively resolving the merits of a contractor's claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive. The county executive shall allow the claim, in full, as approved by the department, without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after the completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department. Compliance with this subsection constitutes compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim submitted under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

(m) Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the department entered into under this section:

(1) The commissioner of the Indiana department of administration.

(2) The director of the budget agency.

(3) The attorney general.

(n) If the money in a county's property reassessment fund is insufficient to pay for a reassessment conducted under this section, the department may increase the tax rate and tax levy of the county's property reassessment fund to pay the cost and expenses related to the reassessment.

(o) The department or the contractor of the department shall use the land values determined under section 13.6 of this chapter for a county subject to an order issued under this section to the extent that the department or the contractor finds that the land values reflect the true tax value of land, as determined under this article and the rules of the department. If the department or the contractor finds that the land values determined for the county under section 13.6 of this chapter do not reflect the true tax value of land, the department or the contractor shall determine land values for the county that reflect the true tax value of land, as determined under this article and the rules of the department. Land values determined under this subsection shall be used to the same extent as if the land values had been determined under section 13.6 of this chapter. The department or the contractor of the department shall notify the county's reassessment officials of the land values determined under this subsection.

(p) A contractor of the department may notify the department if:

(1) a county auditor fails to:

(A) certify the contractor's bill;

(B) publish the contractor's claim;

(C) submit the contractor's claim to the county executive;
or

(D) issue a warrant or check for payment of the contractor's bill;

as required by subsection (l) at the county auditor's first legal opportunity to do so;

(2) a county executive fails to allow the contractor's claim as legally required by subsection (l) at the county executive's first legal opportunity to do so; or

(3) a person or an entity authorized to act on behalf of the county takes or fails to take an action, including failure to

request an appropriation, and that action or failure to act delays or halts progress under this section for payment of the contractor's bill.

(q) The department, upon receiving notice under subsection (p) from a contractor of the department, shall:

(1) verify the accuracy of the contractor's assertion in the notice that:

(A) a failure occurred as described in subsection (p)(1) or (p)(2); or

(B) a person or entity acted or failed to act as described in subsection (p)(3); and

(2) provide to the treasurer of state the department's approval under subsection (l)(2)(A) of the contractor's bill with respect to which the contractor gave notice under subsection (p).

(r) Upon receipt of the department's approval of a contractor's bill under subsection (q), the treasurer of state shall pay the contractor the amount of the bill approved by the department from money in the possession of the state that would otherwise be available for distribution to the county, including distributions from the property tax replacement fund or distribution of admissions taxes or wagering taxes.

(s) The treasurer of state shall withhold from the money that would be distributed under IC 4-33-12-6, IC 4-33-13-5, IC 6-1.1-21-4(b) or any other law to a county described in a notice provided under subsection (p) the amount of a payment made by the treasurer of state to the contractor of the department under subsection (r). Money shall be withheld first from the money payable to the county under IC 6-1.1-21-4(b) and then from all other sources payable to the county.

(t) Compliance with subsections (p) through (s) constitutes compliance with IC 5-11-10.

(u) IC 5-11-10-1.6(d) applies to the treasurer of state with respect to the payment made in compliance with subsections (p) through (s). This subsection and subsections (p) through (s) must be interpreted liberally so that the state shall, to the extent legally valid, ensure that the contractual obligations of a county subject to this section are paid. Nothing in this section shall be construed to create a debt of the state.

(v) The provisions of this section are severable as provided in

IC 1-1-1-8(b).

(w) This section expires January 1, 2007.

SECTION 5. IC 6-1.1-4-36 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 36. (a) Subject to the other requirements of this section, the department of local government finance may:**

(1) negotiate an addendum to a contract referred to in section 35(i) of this chapter that is treated as a contract of the department; or

(2) include provisions in a contract entered into by the department under section 35(i) of this chapter;

to require the contractor of the department to represent the department in appeals initiated under section 37 of this chapter and to afford to each taxpayer in the county an opportunity to attend an informal hearing.

(b) The purpose of the informal hearing referred to in subsection (a) is to:

(1) discuss the specifics of the taxpayer's reassessment;

(2) review the taxpayer's property record card;

(3) explain to the taxpayer how the reassessment was determined;

(4) provide to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the reassessment;

(5) note and consider objections of the taxpayer;

(6) consider all errors alleged by the taxpayer; and

(7) otherwise educate the taxpayer about:

(A) the taxpayer's reassessment;

(B) the reassessment process; and

(C) the reassessment appeal process under section 37 of this chapter.

(c) Following an informal hearing referred to in subsection (b), the contractor shall:

(1) make a recommendation to the department of local government finance as to whether a change in the reassessment is warranted; and

(2) if recommending a change under subdivision (1), provide to the department a statement of:

(A) how the changed reassessment was determined; and

(B) the amount of the changed reassessment.

(d) To preserve the right to appeal under section 37 of this chapter, a taxpayer must initiate the informal hearing process by notifying the department of local government finance or its designee of the taxpayer's intent to participate in an informal hearing referred to in subsection (b) not later than forty-five (45) days after the department of local government finance gives notice under section 35(j) of this chapter to taxpayers of the amount of the reassessment.

(e) The informal hearings referred to in subsection (b) must be conducted:

- (1) in the county where the property is located; and**
- (2) in a manner determined by the department of local government finance.**

(f) The department of local government finance shall:

- (1) consider the recommendation of the contractor under subsection (c); and**
- (2) if the department accepts a recommendation that a change in the reassessment is warranted, accept or modify the recommended amount of the changed reassessment.**

(g) The department of local government finance shall send a notice of the result of each informal hearing to:

- (1) the taxpayer;**
- (2) the county auditor;**
- (3) the county assessor; and**
- (4) the township assessor of the township in which the property is located.**

(h) A notice under subsection (g) must:

- (1) state whether the reassessment was changed as a result of the informal hearing; and**
- (2) if the reassessment was changed as a result of the informal hearing:**

- (A) indicate the amount of the changed reassessment; and**
- (B) provide information on the taxpayer's right to appeal under section 37 of this chapter.**

(i) If the department of local government finance does not send a notice under subsection (g) not later than two hundred seventy (270) days after the date the department gives notice of the amount of the reassessment under section 32(f) of this chapter:

(1) the department may not change the amount of the reassessment under the informal hearing process described in this section; and

(2) the taxpayer may appeal the reassessment under section 37 of this chapter.

(j) The department of local government finance may adopt emergency rules to establish procedures for informal hearings under this section.

(k) Payment for an addendum to a contract under subsection (a)(1) is made in the same manner as payment for the contract under section 35(k) of this chapter.

(l) This section expires January 1, 2007.

SECTION 6. IC 6-1.1-4-37 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 37. (a)** As used in this section, "special master" refers to a person designated by the Indiana board under subsection (e).

(b) The notice of reassessment under section 35(j) of this chapter is subject to appeal by the taxpayer to the Indiana board. The procedures and time limitations that apply to an appeal to the Indiana board of a determination of the department of local government finance do not apply to an appeal under this subsection. The Indiana board may establish applicable procedures and time limitations under subsection (l).

(c) In order to appeal under subsection (b), the taxpayer must:

(1) participate in the informal hearing process under section 36 of this chapter;

(2) except as provided in section 36(i) of this chapter, receive a notice under section 36(g) of this chapter; and

(3) file a petition for review with the appropriate county assessor not later than thirty (30) days after:

(A) the date of the notice to the taxpayer under section 36(g) of this chapter; or

(B) the date after which the department may not change the amount of the reassessment under the informal hearing process described in section 36 of this chapter.

(d) The Indiana board may develop a form for petitions under subsection (c) that outlines:

(1) the appeal process;

(2) the burden of proof; and

(3) evidence necessary to warrant a change to a reassessment.

(e) The Indiana board may contract with, appoint, or otherwise designate the following to serve as special masters to conduct evidentiary hearings and prepare reports required under subsection (g):

(1) Independent, licensed appraisers.

(2) Attorneys.

(3) Certified level two Indiana assessor-appraisers (including administrative law judges employed by the Indiana board).

(4) Other qualified individuals.

(f) Each contract entered into under subsection (e) must specify the appointee's compensation and entitlement to reimbursement for expenses. The compensation and reimbursement for expenses are paid from the county property reassessment fund. Payments under this subsection from the county property reassessment fund may not exceed five hundred thousand dollars (\$500,000).

(g) With respect to each petition for review filed under subsection (c), the special masters shall:

(1) set a hearing date;

(2) give notice of the hearing at least thirty (30) days before the hearing date, by mail, to:

(A) the taxpayer;

(B) the department of local government finance;

(C) the township assessor; and

(D) the county assessor;

(3) conduct a hearing and hear all evidence submitted under this section; and

(4) make evidentiary findings and file a report with the Indiana board.

(h) At the hearing under subsection (g):

(1) the taxpayer shall present:

(A) the taxpayer's evidence that the reassessment is incorrect;

(B) the method by which the taxpayer contends the reassessment should be correctly determined; and

(C) comparable sales, appraisals, or other pertinent information concerning valuation as required by the Indiana board; and

(2) the department of local government finance shall present its evidence that the reassessment is correct.

(i) The Indiana board may dismiss a petition for review filed under subsection (c) if the evidence and other information required under subsection (h)(1) is not provided at the hearing under subsection (g).

(j) The township assessor and the county assessor may attend and participate in the hearing under subsection (g).

(k) The Indiana board may:

(1) consider the report of the special masters under subsection (g)(4);

(2) make a final determination based on the findings of the special masters without:

(A) conducting a hearing; or

(B) any further proceedings; and

(3) incorporate the findings of the special masters into the board's findings in resolution of the appeal.

(l) The Indiana board may adopt emergency rules under IC 4-22-2-37.1 to:

(1) establish procedures to expedite:

(A) the conduct of hearings under subsection (g); and

(B) the issuance of determinations of appeals under subsection (k); and

(2) establish deadlines:

(A) for conducting hearings under subsection (g); and

(B) for issuing determinations of appeals under subsection (k).

(m) A determination by the Indiana board of an appeal under subsection (k) is subject to appeal to the tax court under IC 6-1.1-15.

(n) This section expires January 1, 2007.

SECTION 7. IC 6-1.1-4-38 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) As used in this section, "qualifying county" means a county in which the department of local government finance, under section 35 of this chapter, conducts the general reassessment scheduled to become effective under section 4(a) of this chapter for property taxes first due and payable in 2003.

(b) As used in this section, "contractor" means a reassessment contractor of the department of local government finance that is conducting a county's general reassessment under section 35 of this chapter.

(c) As used in this section, "qualifying official" refers to any of the following:

- (1) A county assessor of a qualifying county.**
- (2) A township assessor of a qualifying county.**
- (3) The county auditor of a qualifying county.**
- (4) The treasurer of a qualifying county.**
- (5) The county surveyor of a qualifying county.**
- (6) A member of the land valuation commission in a qualifying county.**
- (7) Any other township or county official in a qualifying county who has possession or control of information necessary or useful for a general reassessment, general reassessment review, or special reassessment of property to which section 35 of this chapter applies, including information in the possession or control of an employee or a contractor of the official.**
- (8) Any county official in a qualifying county who has control, review, or other responsibilities related to paying claims of a contractor submitted for payment under section 35 of this chapter.**

(d) Upon petition from the department of local government finance or a contractor, the tax court may order a qualifying official to produce information requested in writing from the qualifying official by the department of local government finance or a contractor.

(e) If the tax court orders a qualifying official to provide requested information as described in subsection (d), the tax court shall order production of the information not later than fourteen (14) days after the date of the tax court's order.

(f) The tax court may find that any willful violation of this section by a qualifying official constitutes a direct contempt of the tax court.

(g) This section expires January 1, 2007.

SECTION 8. IC 6-1.1-4-39 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: **Sec. 39. (a) For assessment dates after February 28, 2005, except as provided in subsection (c), the true tax value of real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more and that has more than four (4) rental units is the lowest valuation determined by applying each of the following appraisal approaches:**

(1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation together with estimates of the losses in value that have taken place due to wear and tear, design and plan, or neighborhood influences.

(2) Sales comparison approach, using data for generally comparable property.

(3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use.

(b) The gross rent multiplier method is the preferred method of valuing:

(1) real property that has at least one (1) and not more than four (4) rental units; and

(2) mobile homes assessed under IC 6-1.1-7.

(c) A township assessor is not required to appraise real property referred to in subsection (a) using the three (3) appraisal approaches listed in subsection (a) if the township assessor and the taxpayer agree before notice of the assessment is given to the taxpayer under section 22 of this chapter to the determination of the true tax value of the property by the assessor using one (1) of those appraisal approaches.

(d) To carry out this section, the department of local government finance may adopt rules for assessors to use in gathering and processing information for the application of the income capitalization method and the gross rent multiplier method. A taxpayer must verify under penalties for perjury any information provided to the assessor for use in the application of either method.

SECTION 9. IC 6-1.1-5.5-3, AS AMENDED BY P.L.245-2003,

SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

(b) Except as provided in subsection (c), the auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency:

(1) before January 1, 2005, in an electronic format, if possible; and

(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.

The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, **adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6**, and any other authorized purpose.

(c) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency:

(1) before January 1, 2005, in an electronic format, if possible; and

(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.

The township assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government

finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, **adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6**, and any other authorized purpose.

SECTION 10. IC 6-1.1-5.5-4.7, AS AMENDED BY P.L.90-2002, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4.7. (a) The assessment training fund is established for the purpose of receiving fees deposited under section 4 of this chapter. **Money in fund may be used by the department of local government finance to cover expenses incurred in the development and administration of programs** for the training of assessment officials and employees of the department, ~~of local government finance;~~ **including the examination and certification program required by IC 6-1.1-35.5.** The fund shall be administered by the treasurer of state.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 11. IC 6-1.1-7-2, AS AMENDED BY P.L.90-2002, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department of local government finance may adopt rules in order to provide a method for assessing mobile homes. These rules must be consistent with this article, **including the factors required under IC 6-1.1-31-7.**

SECTION 12. IC 6-1.1-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. If a township assessor, county assessor, or county property tax assessment board of appeals believes that any taxable tangible property has been omitted from or undervalued on the assessment rolls or the tax duplicate for any year or years, the official or board shall give written notice under IC 6-1.1-3-20 or IC 6-1.1-4-22 of the assessment or increase in assessment. The notice shall contain a general description of the property and a statement describing the taxpayer's right to ~~file a petition~~

for a preliminary conference and to a review with the county property tax assessment board of appeals under IC 6-1.1-15-1.

SECTION 13. IC 6-1.1-15-1, AS AMENDED BY P.L.178-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A taxpayer may obtain a review by the county property tax assessment board of appeals of a county or township official's action with respect to the assessment of the taxpayer's tangible property if the official's action requires the giving of notice to the taxpayer. ~~The taxpayer and county or township official whose original determination is under review are parties to the proceeding before the county property tax assessment board of appeals.~~ At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

- (1) the opportunity for review under this section, **including an informal preliminary conference with the county or township official referred to in this subsection;** and
- (2) the procedures the taxpayer must follow in order to obtain review under this section.

(b) In order to appeal a current assessment and have a change in the assessment effective for the most recent assessment date, the taxpayer must ~~file a petition with the assessor of the county in which the action is taken:~~ **request in writing a preliminary conference with the county or township official referred to in subsection (a):**

- (1) within forty-five (45) days after notice of a change in the assessment is given to the taxpayer; or
- (2) May 10 of that year;

whichever is later. The county ~~assessor or township official referred to in subsection (a)~~ shall notify the county auditor that the assessment is under appeal. **The preliminary conference required under this subsection is a prerequisite to a review by the county property tax assessment board of appeals under subsection (i).**

- (c) A change in an assessment made as a result of an appeal filed:
- (1) in the same year that notice of a change in the assessment is given to the taxpayer; and
 - (2) after the time prescribed in subsection (b);

becomes effective for the next assessment date.

(d) A taxpayer may appeal a current real property assessment in a year even if the taxpayer has not received a notice of assessment in the

year. If an appeal is filed on or before May 10 of a year in which the taxpayer has not received notice of assessment, a change in the assessment resulting from the appeal is effective for the most recent assessment date. If the appeal is filed after May 10, the change becomes effective for the next assessment date.

(e) The written request for a preliminary conference that is required under subsection (b) must include the following information:

- (1) The name of the taxpayer.**
- (2) The address and parcel or key number of the property.**
- (3) The address and telephone number of the taxpayer.**

(e) The department of local government finance shall prescribe the form of the petition for review of an assessment determination by a township assessor. The department shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to the average individual. An appeal of such a determination must be made on the form prescribed by the department. The form must require the petitioner to specify the following:

- (1)** The physical characteristics of the property in issue that bear on the assessment determination.
- (2)** All other facts relevant to the assessment determination.
- (3)** The reasons why the petitioner believes that the assessment determination by the township assessor is erroneous.

(f) The department of local government finance shall prescribe a form for a response by the township assessor to the petition for review of an assessment determination. The department shall issue instructions for completion of the form. The form must require the township assessor to indicate:

- (1)** agreement or disagreement with each item indicated on the petition under subsection (e); and
- (2)** the reasons why the assessor believes that the assessment determination is correct.

(g) Immediately upon receipt of a timely filed petition on the form prescribed under subsection (e), the county assessor shall forward a copy of the petition to the township assessor who made the challenged assessment. **(f)** The township assessor **county or township official referred to in subsection (a)** shall, within thirty (30) days after the

receipt of ~~the petition~~, a written request for a preliminary conference, attempt to hold a preliminary conference with the ~~petitioner and taxpayer~~ to resolve as many issues as possible by:

- (1) discussing the specifics of the taxpayer's reassessment;
- (2) reviewing the taxpayer's property record card;
- (3) explaining to the taxpayer how the reassessment was determined;
- (4) providing to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the reassessment;
- (5) noting and considering objections of the taxpayer;
- (6) considering all errors alleged by the taxpayer; and
- (7) otherwise educating the taxpayer about:
 - (A) the taxpayer's reassessment;
 - (B) the reassessment process; and
 - (C) the reassessment appeal process.

Within ten (10) days after the conference, the ~~township assessor~~ **county or township official referred to in subsection (a)** shall forward to the county auditor and ~~county assessor~~ a completed response to the petition on the form prescribed under subsection (f). The ~~county assessor~~ shall immediately forward a copy of the response form to the ~~petitioner and the county property tax assessment board of appeals~~ **the results of the conference on a form prescribed by the department of local government finance that must be completed and signed by the taxpayer and the official. The official and the taxpayer shall each retain a copy of the form for their records.**

(g) The form submitted to the county property tax assessment board of appeals under subsection (f) must specify the following:

- (1) The physical characteristics of the property in issue that bear on the assessment determination.
- (2) All other facts relevant to the assessment determination.
- (3) A list of the reasons the taxpayer believes that the assessment determination by the county or township official referred to in subsection (a) is incorrect.
- (4) An indication of the agreement or disagreement by the official with each item listed under subdivision (3).
- (5) The reasons the official believes that the assessment determination is correct.

(h) If after the conference there are no items listed in the petition on the form submitted to the county property tax assessment board of appeals under subsection (f) on which there is disagreement:

(1) the ~~township assessor~~ **county or township official referred to in subsection (a)** shall give notice to the ~~petitioner; taxpayer,~~ the county property tax assessment board of appeals, and the county assessor of the assessment in the amount agreed to by the ~~petitioner taxpayer~~ and the ~~township assessor; official;~~ and

(2) the county property tax assessment board of appeals may reserve the right to change the assessment under ~~IC 6-1-1-9;~~

IC 6-1.1-13.

(i) If after the conference there are items listed in the petition form submitted under subsection (f) on which there is disagreement, the county property tax assessment board of appeals shall hold a hearing. The taxpayer and county or township official whose original determination is under review are parties to the proceeding before the board of appeals. Except as provided in subsections (k) and (l), the hearing must be held within ninety (90) days of the filing of the petition on those items of disagreement except as provided in subsections (h) and (i): official's receipt of the taxpayer's written request for a preliminary conference under subsection (b). The taxpayer may present the taxpayer's reasons for disagreement with the assessment. The township assessor or county assessor for the county county or township official referred to in subsection (a) must present the basis for the assessment decision on these items to the board of appeals at the hearing and the reasons the petitioner's taxpayer's appeal should be denied on those items. The board of appeals shall have a written record of the hearing and prepare a written statement of findings and a decision on each item within sixty (60) days of the hearing, except as provided in subsections (h) (k) and (i). If the township assessor does not attempt to hold a preliminary conference, the board shall accept the appeal of the petitioner at the hearing. (l).

(j) If the township assessor does not attempt to hold a preliminary conference, the taxpayer may file a request in writing with the county assessor for a hearing before the property tax assessment board of appeals. If the board determines that the county or township official referred to in subsection (a) did not attempt to hold a preliminary conference, the board shall hold a

hearing. The taxpayer and the county or township official whose original determination is under review are parties to the proceeding before the board of appeals. The hearing must be held within ninety (90) days of the receipt by the board of appeals of the taxpayer's hearing request under this subsection. The requirements of subsection (i) with respect to:

(1) participation in the hearing by the taxpayer and the township assessor or county assessor; and

(2) the procedures to be followed by the county board;

apply to a hearing held under this subsection.

~~(h)~~ (k) This subsection applies to a county having a population of more than three hundred thousand (300,000). In the case of a petition filed after December 31, 2000, the county property tax assessment board of appeals shall:

(1) hold its hearing within one hundred eighty (180) days instead of ninety (90) days; and

(2) have a written record of the hearing and prepare a written statement of findings and a decision on each item within one hundred twenty (120) days after the hearing.

~~(i)~~ (l) This subsection applies to a county having a population of three hundred thousand (300,000) or less. With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the county property tax assessment board of appeals shall:

(1) hold its hearing within one hundred eighty (180) days instead of ninety (90) days; and

(2) have a written record of the hearing and prepare a written statement of findings and a decision on each item within one hundred twenty (120) days after the hearing.

~~(j)~~ (m) The county property tax assessment board of appeals:

(1) may not require a taxpayer ~~that files a petition for review under this section~~ to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under subsection ~~(g); (i) or (j);~~ and

(2) may ~~require the parties to the appeal to file not more than ten (10) days before the date of the hearing required under subsection (g) lists of witnesses and exhibits to be introduced at the hearing. amend the form submitted under subsection (f) if the board~~

determines that the amendment is warranted.

SECTION 14. IC 6-1.1-15-2.1, AS AMENDED BY P.L.198-2001, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. (a) The county property tax assessment board of appeals may assess the tangible property in question.

(b) The county property tax assessment board of appeals shall, by mail, give notice of the date fixed for the hearing under section 1 of this chapter to the ~~petitioner~~, **taxpayer** and to the township assessor.

(c) If a petition for review does not comply with the department of local government finance's instructions for completing the form prescribed under section 1(c) of this chapter, the county assessor shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition or statement with the county assessor that the petitioner believes the petition is not defective. If a statement is filed or the county assessor believes a corrected petition is not in compliance with section 1(c) of this chapter, the assessor shall forward the statement or corrected petition to the county property tax assessment board of appeals. Within ten (10) days after receiving the statement or petition, the county property tax assessment board of appeals shall determine if the original or corrected petition is still not in compliance. The county property tax assessment board of appeals shall deny an original or a corrected petition for review if it does not substantially comply with the department of local government finance's instructions for completing the form prescribed under section 1(c) of this chapter.

(d) ~~(c)~~ The department of local government finance shall prescribe a form for use by the county property tax assessment board of appeals in processing ~~petitions for a review of an assessment determinations:~~ **determination**. The department shall issue instructions for completion of the form. The form must require the county property tax assessment board of appeals to include a record of the hearing, findings on each item, and indicate agreement or disagreement with each item that is

(1) indicated on the ~~petition form~~ **submitted by the taxpayer and the county or township official** under section 1(c) 1(f) of this chapter. and

(2) included in the township assessor's response under section 1(g) of this chapter.

The form must also require the county property tax assessment board of appeals to indicate the issues in dispute for each item and its reasons in support of its resolution of those issues.

~~(e)~~ **(d)** After the hearing the county property tax assessment board of appeals shall, by mail, give notice of its determination to the ~~petitioner~~, **taxpayer**, the township assessor, and the county assessor and shall include with the notice copies of the forms completed under subsection ~~(d)~~: **(c)**.

SECTION 15. IC 6-1.1-15-3, AS AMENDED BY P.L.256-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A taxpayer may obtain a review by the Indiana board of a county property tax assessment board of appeals action with respect to the assessment of that taxpayer's tangible property if the county property tax assessment board of appeals' action requires the giving of notice to the taxpayer. A township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original determination under appeal under this section is a party to the review under this section to defend the determination. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

- (1) the taxpayer's opportunity for review under this section; and
- (2) the procedures the taxpayer must follow in order to obtain review under this section.

(b) A township assessor or county assessor may obtain a review by the Indiana board of any assessment which the township assessor or the county assessor has made, upon which the township assessor or the county assessor has passed, or which has been made over the township assessor's or the county assessor's protest.

(c) In order to obtain a review by the Indiana board under this section, the party must file a petition for review with the appropriate county assessor within thirty (30) days after the notice of the county property tax assessment board of appeals action is given to the taxpayer.

(d) The Indiana board shall prescribe the form of the petition for review of an assessment determination by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form and the instructions must be

clear, simple, and understandable to the average individual. An appeal of such a determination must be made on the form prescribed by the Indiana board. The form must require the petitioner to specify the following:

(1) **If the county or township official held a preliminary conference under section 1(f) of this chapter**, the items listed in section ~~1(c)(1)~~ **1(g)(1)** and ~~1(c)(2)~~ **1(g)(2)** of this chapter.

(2) The reasons why the petitioner believes that the assessment determination by the county property tax assessment board of appeals is erroneous.

(e) The county assessor shall transmit the petition for review to the Indiana board within ten (10) days after it is filed.

(f) If a township assessor or a member of the county property tax assessment board of appeals files a petition for review under this section concerning the assessment of a taxpayer's property, the county assessor must send a copy of the petition to the taxpayer.

SECTION 16. IC 6-1.1-15-4, AS AMENDED BY P.L.245-2003, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) After receiving a petition for review which is filed under section 3 of this chapter, the Indiana board shall conduct a hearing at its earliest opportunity. The Indiana board may:

(1) assign:

(A) full;

(B) limited; or

(C) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

If the Indiana board conducts a site inspection of the property as part of its review of the petition, the Indiana board shall give notice to all parties of the date and time of the site inspection. The Indiana board is not required to assess the property in question. The Indiana board shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. The Indiana board shall give these notices at least thirty (30) days before the day fixed for the hearing. The property tax assessment

board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the property reassessment fund under IC 6-1.1-4-27.5. The executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit.

(b) If a petition for review does not comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter, the Indiana board shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition. The Indiana board shall deny a corrected petition for review if it does not substantially comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter.

(c) The Indiana board shall prescribe a form for use in processing petitions for review of actions by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form must require the Indiana board to indicate agreement or disagreement with each item that is:

- (1) if the county or township official held a preliminary conference under section 1(f) of this chapter, indicated on the petition submitted under ~~section 1(c) of this chapter~~; that section by the taxpayer and the official;**
- (2) included in the township assessor's response under section ~~1(g) of this chapter~~; and**
- (3) (2) included in the county property tax assessment board of appeals' findings, record, and determination under section ~~2.1(d)~~ 2.1(c) of this chapter.**

The form must also require the Indiana board to indicate the issues in dispute and its reasons in support of its resolution of those issues.

(d) After the hearing the Indiana board shall give the petitioner, the township assessor, the county assessor, and the county auditor:

- (1) notice, by mail, of its final determination;
- (2) a copy of the form completed under subsection (c); and

(3) notice of the procedures they must follow in order to obtain court review under section 5 of this chapter.

(e) Except as provided in subsection (f), the Indiana board shall conduct a hearing not later than nine (9) months after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(f) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall conduct a hearing not later than one (1) year after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(g) Except as provided in subsection (h), the Indiana board shall make a determination not later than the later of ninety (90) days after the hearing or the date set in an extension order issued by the Indiana board.

(h) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall make a determination not later than the later of one hundred eighty (180) days after the hearing or the date set in an extension order issued by the Indiana board.

(i) Except as provided in subsection (n), the Indiana board may not extend the final determination date under subsection (g) or (h) by more than one hundred eighty (180) days. If the Indiana board fails to make a final determination within the time allowed by this subsection, the entity that initiated the petition may:

(1) take no action and wait for the Indiana board to make a final determination; or

(2) petition for judicial review under section 5(g) of this chapter.

(j) A final determination must include separately stated findings of fact for all aspects of the determination. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Findings must be based exclusively upon the evidence on the record in the proceeding and on matters officially noticed in the proceeding. Findings must be based upon a preponderance of the evidence.

(k) The Indiana board may limit the scope of the appeal to the issues

raised in the petition and the evaluation of the evidence presented to the county property tax assessment board of appeals in support of those issues only if all persons participating in the hearing required under subsection (a) agree to the limitation. A person participating in the hearing required under subsection (a) is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals.

(l) The Indiana board:

- (1) may require the parties to the appeal to file not more than five (5) business days before the date of the hearing required under subsection (a) documentary evidence or summaries of statements of testimonial evidence; and
- (2) may require the parties to the appeal to file not more than fifteen (15) business days before the date of the hearing required under subsection (a) lists of witnesses and exhibits to be introduced at the hearing.

(m) A party to a proceeding before the Indiana board shall provide to another party to the proceeding the information described in subsection (l) if the other party requests the information in writing at least ten (10) days before the deadline for filing of the information under subsection (l).

(n) The county assessor may:

- (1) appear as an additional party if the notice of appearance is filed before the review proceeding; or
- (2) with the approval of the township assessor, represent the township assessor;

in a review proceeding under this section.

(o) The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation. The Indiana board may:

- (1) order that a final determination under this subsection has no precedential value; or
- (2) specify a limited precedential value of a final determination

under this subsection.

SECTION 17. IC 6-1.1-15-10, AS AMENDED BY P.L.1-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If a petition for review to any board or a proceeding for judicial review in the tax court regarding an assessment or increase in assessment is pending, the taxes resulting from the assessment or increase in assessment are, notwithstanding the provisions of IC 6-1.1-22-9, not due until after the petition for review, or the proceeding for judicial review, is finally adjudicated and the assessment or increase in assessment is finally determined. However, even though a petition for review or a proceeding for judicial review is pending, the taxpayer shall pay taxes on the tangible property when the property tax installments come due, unless the collection of the taxes is stayed under IC 4-21.5-5-9 pending a final determination in the proceeding for judicial review. The amount of taxes which the taxpayer is required to pay, pending the final determination of the assessment or increase in assessment, shall be based on:

- (1) the assessed value reported by the taxpayer on the taxpayer's personal property return if a personal property assessment, or an increase in such an assessment, is involved; or
- (2) an amount based on the immediately preceding year's assessment of real property if an assessment, or increase in assessment, of real property is involved.

(b) If the petition for review or the proceeding for judicial review is not finally determined by the last installment date for the taxes, the taxpayer, upon showing of cause by a taxing official or at the tax court's discretion, may be required to post a bond or provide other security in an amount not to exceed the taxes resulting from the contested assessment or increase in assessment.

(c) Each county auditor shall keep separate on the tax duplicate a record of that portion of the assessed value of property

- (1) on which a taxpayer is not required to pay taxes under subsection (a); or
- (2) that is described in IC 6-1.1-17-0.5(b).

When establishing rates and calculating state school support, the department of local government finance shall recognize the fact that a taxpayer is not required to pay taxes under certain circumstances. exclude from assessed value in the county the assessed value of

property kept separate on the tax duplicate by the county auditor under IC 6-1.1-17-0.5(b).

SECTION 18. IC 6-1.1-15-11, AS AMENDED BY P.L.90-2002, SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. **(a)** If a review or appeal authorized under this chapter results in a reduction of the amount of an assessment or if the department of local government finance on its own motion reduces an assessment, the taxpayer is entitled to a credit in the amount of any overpayment of tax on the next successive tax installment, if any, due in that year. ~~He~~ After the credit is given, **the county auditor shall:**

(1) determine if a further amount is due the taxpayer; ~~he may file a claim for and~~

(2) if a further amount is due the taxpayer, notwithstanding IC 5-11-10-1 and IC 36-2-6-2, amount due. ~~If the claim is allowed by The board of county commissioners, the county auditor shall;~~ without **a claim or** an appropriation being required, pay the amount due the taxpayer.

The county auditor shall charge the amount refunded to the taxpayer against the accounts of the various taxing units to which the overpayment has been paid. **The county auditor shall notify the county executive of the payment of the amount due and publish the allowance in the manner provided in IC 36-2-6-3.**

(b) The notice under subsection (a)(2) is treated as a claim by the taxpayer for the amount due referred to in that subsection.

SECTION 19. IC 6-1.1-17-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. (a) This section applies:

(1) to each governing body of a taxing unit that is not comprised of a majority of officials who are elected to serve on the governing body; and

(2) if the proposed property tax levy for the taxing unit for the ensuing calendar year is more than five percent (5%) greater than the property tax levy for the taxing unit for the current calendar year.

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include a school corporation. ~~or a public library district.~~

(c) If:

- (1) the assessed valuation of a taxing unit is entirely contained within a city or town; or
- (2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body shall submit its proposed budget and property tax levy to the city or town fiscal body. The proposed budget and levy shall be submitted at least fourteen (14) days before the city or town fiscal body is required to hold budget approval hearings under this chapter.

(d) If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted at least fourteen (14) days before the county fiscal body is required to hold budget approval hearings under this chapter.

(e) The fiscal body of the city, town, or county (whichever applies) shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy. ~~However, the fiscal body may not reduce the proposed tax levy to an amount that is less than the maximum permissible levy under IC 6-1.1-18.5-3.~~

SECTION 20. IC 6-1.1-18-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) For purposes of this section, "maximum rate" refers to the maximum:**

- (1) property tax rate or rates; or**
- (2) special benefits tax rate or rates;**

referred to in the statutes listed in subsection (d).

(b) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (e) for taxes first due and payable in 2003 if subsection (e) had applied for taxes first due and payable in 2003.

(c) The maximum rate must be adjusted:

- (1) each time an annual adjustment of the assessed value of real property takes effect under IC 6-1.1-4-4.5; and**
- (2) each time a general reassessment of real property takes effect under IC 6-1.1-4-4.**

(d) The statutes to which subsection (a) refers are:

- (1) IC 8-10-5-17;**
- (2) IC 8-22-3-11;**
- (3) IC 8-22-3-25;**
- (4) IC 12-29-1-1;**
- (5) IC 12-29-1-2;**
- (6) IC 12-29-1-3;**
- (7) IC 12-29-2-13;**
- (8) IC 12-29-3-6;**
- (9) IC 13-21-3-12;**
- (10) IC 13-21-3-15;**
- (11) IC 14-27-6-30;**
- (12) IC 14-33-7-3;**
- (13) IC 14-33-21-5;**
- (14) IC 15-1-6-2;**
- (15) IC 15-1-8-1;**
- (16) IC 15-1-8-2;**
- (17) IC 16-20-2-18;**
- (18) IC 16-20-4-27;**
- (19) IC 16-20-7-2;**
- (20) IC 16-23-1-29;**
- (21) IC 16-23-3-6;**
- (22) IC 16-23-4-2;**
- (23) IC 16-23-5-6;**
- (24) IC 16-23-7-2;**
- (25) IC 16-23-8-2;**
- (26) IC 16-23-9-2;**
- (27) IC 16-41-15-5;**
- (28) IC 16-41-33-4;**
- (29) IC 20-5-17.5-2;**
- (30) IC 20-5-17.5-3;**
- (31) IC 20-5-37-4;**
- (32) IC 20-14-7-5.1;**
- (33) IC 20-14-7-6;**
- (34) IC 20-14-13-12;**
- (35) IC 21-1-11-3;**
- (36) IC 21-2-17-2;**
- (37) IC 23-13-17-1;**
- (38) IC 23-14-66-2;**

(39) IC 23-14-67-3;

(40) IC 36-7-13-4;

(41) IC 36-7-14-28;

(42) IC 36-7-15.1-16;

(43) IC 36-8-19-8.5;

(44) IC 36-9-6.1-2;

(45) IC 36-9-17.5-4;

(46) IC 36-9-27-73;

(47) IC 36-9-29-31;

(48) IC 36-9-29.1-15;

(49) IC 36-10-6-2;

(50) IC 36-10-7-7;

(51) IC 36-10-7-8;

(52) IC 36-10-7.5-19; and

(53) any statute enacted after December 31, 2003, that:

(A) establishes a maximum rate for any part of the:

(i) property taxes; or

(ii) special benefits taxes;

imposed by a political subdivision; and

(B) does not exempt the maximum rate from the adjustment under this section.

(e) The new maximum rate under a statute listed in subsection (d) is the tax rate determined under STEP SEVEN of the following STEPS:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

SECTION 21. IC 6-1.1-18.5-1, AS AMENDED BY P.L.198-2001, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Ad valorem property tax levy for an ensuing calendar year" means the total property taxes imposed by a civil taxing unit for current property taxes collectible in that ensuing calendar year.

"Adopting county" means any county in which the county adjusted gross income tax is in effect.

"Civil taxing unit" means any taxing unit except a school corporation.

"Maximum permissible ad valorem property tax levy for the preceding calendar year" means ~~the greater of:~~

(1) the civil taxing unit's maximum permissible ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined under section 3 of this chapter; or

(2) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined by the department of local

government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17, **and after eliminating the effects of temporary excessive levy appeals and temporary adjustments made to the working maximum levy for the calendar year immediately preceding the ensuing calendar year, as determined by the department of local government finance.**

"Taxable property" means all tangible property that is subject to the tax imposed by this article and is not exempt from the tax under IC 6-1.1-10 or any other law. For purposes of sections 2 and 3 of this chapter, the term "taxable property" is further defined in section 6 of this chapter.

"Unadjusted assessed value" means the assessed value of a civil taxing unit as determined by local assessing officials and the department of local government finance in a particular calendar year before the application of an annual adjustment under IC 6-1.1-4-4.5 for that particular calendar year or any calendar year since the last general reassessment preceding the particular calendar year.

SECTION 22. IC 6-1.1-18.5-13, AS AMENDED BY P.L.245-2003, SECTION 16, AND AS AMENDED BY P.L.224-2003, SECTION 246, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

~~(1) Permission to the civil taxing unit to reallocate the amount set aside as a property tax replacement credit as required by IC 6-3.5-1.1 for a purpose other than property tax relief. However, whenever this occurs, the local government tax control board shall also state the amount to be reallocated.~~

~~(2) (1) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.~~

~~(3) (2) Permission to the civil taxing unit to increase its levy in~~

excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's share of the costs of operating a court for the first full calendar year in which it is in existence.

~~(4)~~ (3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and three-hundredths (1.03):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the *sum of the* civil taxing unit's total assessed value of all taxable property *and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42* in the particular calendar year, divided by the *sum of the* civil taxing unit's total assessed value of all taxable property *and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42* in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the *sum of the* total assessed value of all taxable property in ~~the state~~ *all counties*

and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the total assessed value of all taxable property in ~~the state~~ all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

In addition, before the local government tax control board may recommend the relief allowed under this subdivision, the civil taxing unit must show a need for the increased levy because of special circumstances; and the local government tax control board must consider other sources of revenue and other means of relief. The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.

~~(5)~~ (4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a

volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

~~(6)~~ **(5)** Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

~~(7)~~ **(6)** Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's poor relief ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing poor relief under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's poor relief ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem

property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

~~(8)~~ (7) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

~~(9)~~ (8) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300);

and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

~~(10)~~ (9) Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) *that operates a county jail or juvenile detention center that is subject to an order that:*

(i) was issued by a federal district court; and

(ii) has not been terminated;

(C) *that operates a county jail that fails to meet:*

(i) American Correctional Association Jail Construction Standards; and

(ii) Indiana jail operation standards adopted by the department of correction; or

(D) *that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.*

Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

~~(+H)~~ **(10)** Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

~~(+2)~~ **(11)** Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A

township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

~~(13)~~ **(12)** Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under ~~subdivision (1)~~ **this section to reallocate property tax replacement credits under IC 6-3.5-1.1** in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned **under this section** to have reallocated in 2001 ~~under subdivision (1)~~ for a purpose other than property tax relief.

SECTION 23. IC 6-1.1-18.5-16, AS AMENDED BY P.L.90-2002, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A civil taxing unit may request permission from the local government tax control board to impose an ad valorem property tax levy that exceeds the limits imposed by section 3 of this chapter if:

(1) the civil taxing unit experienced a property tax revenue shortfall that resulted from erroneous assessed valuation figures being provided to the civil taxing unit;

(2) the erroneous assessed valuation figures were used by the civil taxing unit in determining its total property tax rate; and

(3) the error in the assessed valuation figures was found after the civil taxing unit's property tax levy resulting from that total rate was finally approved by the department of local government finance.

(b) A civil taxing unit may request permission from the local government tax control board to impose an ad valorem property tax levy that exceeds the limits imposed by section 3 of this chapter if the civil taxing unit experienced a property tax revenue shortfall

because of the payment of refunds that resulted from appeals under this article and IC 6-1.5.

(c) If the local government tax control board determines that ~~such~~ a shortfall **described in subsection (a) or (b)** has occurred, it shall recommend to the department of local government finance that the civil taxing unit be allowed to impose a property tax levy exceeding the limit imposed by section 3 of this chapter, and the department ~~shall~~ **may** adopt such recommendation. However, the maximum amount by which the civil taxing unit's levy may be increased over the limits imposed by section 3 of this chapter equals the remainder of the civil taxing unit's property tax levy for the particular calendar year as finally approved by the department of local government finance minus the actual property tax levy collected by the civil taxing unit for that particular calendar year.

~~(c)~~ (d) Any property taxes collected by a civil taxing unit over the limits imposed by section 3 of this chapter under the authority of this section may not be treated as a part of the civil taxing unit's maximum permissible ad valorem property tax levy for purposes of determining its maximum permissible ad valorem property tax levy for future years.

~~(d)~~ (e) If the department of local government finance authorizes an excess tax levy under this section, it shall take appropriate steps to insure that the proceeds are first used to repay any loan made to the civil taxing unit for the purpose of meeting its current expenses.

SECTION 24. IC 6-1.1-18.5-17, AS AMENDED BY P.L.90-2002, SECTION 172, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) As used in this section, "levy excess" means the part of the ad valorem property tax levy actually collected by a civil taxing unit, for taxes first due and payable during a particular calendar year, that exceeds the civil taxing unit's ad valorem property tax levy, as approved by the department of local government finance under IC 6-1.1-17.

(b) A civil taxing unit's levy excess is valid and may not be contested on the grounds that it exceeds the civil taxing unit's levy limit for the applicable calendar year. However, the civil taxing unit shall deposit, except as provided in subsection (h), ~~the part of its levy that exceeds one hundred two percent (102%) of the civil taxing unit's ad valorem property tax levy for the applicable calendar year, as approved by the department of local government finance under IC 6-1.1-17;~~

excess in a special fund to be known as the civil taxing unit's levy excess fund.

(c) The chief fiscal officer of a civil taxing unit may invest money in the civil taxing unit's levy excess fund in the same manner in which money in the civil taxing unit's general fund may be invested. However, any income derived from investment of the money shall be deposited in and becomes a part of the levy excess fund.

(d) The department of local government finance ~~may~~ **shall** require a civil taxing unit to include the amount in its levy excess fund in the civil taxing unit's budget fixed under IC 6-1.1-17.

(e) Except as provided by subsection (f), a civil taxing unit may not spend any money in its levy excess fund until the expenditure of the money has been included in a budget that has been approved by the department of local government finance under IC 6-1.1-17. For purposes of fixing its budget and for purposes of the **ad valorem** property tax levy limits imposed under this chapter, a civil taxing unit shall treat the money in its levy excess fund that the department of local government finance permits it to spend during a particular calendar year as part of its ad valorem property tax levy for that same calendar year.

(f) A civil taxing unit may transfer money from its levy excess fund to its other funds to reimburse those funds for amounts withheld from the civil taxing unit as a result of refunds paid under IC 6-1.1-26.

(g) Subject to the limitations imposed by this section, a civil taxing unit may use money in its levy excess fund for any lawful purpose for which money in any of its other funds may be used.

(h) If the amount that would, notwithstanding this subsection, be deposited in the levy excess fund of a civil taxing unit for a particular calendar year is less than one hundred dollars (\$100), no money shall be deposited in the levy excess fund of the unit for that year.

SECTION 25. IC 6-1.1-18.6-2, AS AMENDED BY P.L.273-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2. A county may not impose a county family and children property tax levy for an ensuing calendar year that exceeds the ~~product of:~~ **levy determined under IC 12-19-7-4.**

(†) ~~the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for the ensuing calendar year;~~

multiplied by

(2) the maximum county family and children property tax levy that the county could have imposed for the calendar year immediately preceding the ensuing calendar year under the limitations set by this section:

SECTION 26. IC 6-1.1-18.6-2.2, AS ADDED BY P.L.224-2003, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2.2. A county may not impose a county children's psychiatric residential treatment services property tax levy for an ensuing calendar year that exceeds the ~~product of: levy~~ **determined under IC 12-19-7.5-6.**

(1) the assessed value growth quotient determined under ~~IC 6-1.1-18.5-2~~ for the county for the ensuing calendar year; multiplied by

(2) the maximum county children's psychiatric residential treatment services property tax levy that the county could have imposed for the calendar year immediately preceding the ensuing calendar year under the limitations set by this section:

SECTION 27. IC 6-1.1-19-1.5, AS AMENDED BY P.L.276-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) The following definitions apply throughout this section and IC 21-3-1.7:

(1) "Adjustment factor" means the adjustment factor determined by the department of local government finance for a school corporation under IC 6-1.1-34.

(2) "Adjusted target property tax rate" means:

(A) the school corporation's target general fund property tax rate determined under IC 21-3-1.7-6.8; multiplied by

(B) the school corporation's adjustment factor.

(3) "Previous year property tax rate" means the school corporation's previous year general fund property tax rate after the reductions cited in IC 21-3-1.7-5(1), IC 21-3-1.7-5(2), and IC 21-3-1.7-5(3).

(b) Except as otherwise provided in this chapter, a school corporation may not, for a calendar year beginning after December 31, 2004, impose a general fund ad valorem property tax levy which exceeds the following:

STEP ONE: Determine the result of:

(A) the school corporation's adjusted target property tax rate; minus

(B) the school corporation's previous year property tax rate.

STEP TWO: If the school corporation's adjusted target property tax rate:

(A) exceeds the school corporation's previous year property tax rate, perform the calculation under STEP THREE and not under STEP FOUR;

(B) is less than the school corporation's previous year property tax rate, perform the calculation under STEP FOUR and not under STEP THREE; or

(C) equals the school corporation's previous year property tax rate, determine the levy resulting from using the school corporation's adjusted target property tax rate and do not perform the calculation under STEP THREE or STEP FOUR.

STEP THREE: Determine the levy resulting from using the school corporation's previous year property tax rate after increasing the rate by the lesser of:

(A) the STEP ONE result; or

(B) five cents (\$0.05).

STEP FOUR: Determine the levy resulting from using the school corporation's previous year property tax rate after reducing the rate by the lesser of:

(A) the absolute value of the STEP ONE result; or

(B) five cents (\$0.05).

STEP FIVE: Determine the result of:

(A) the STEP TWO (C), STEP THREE, or STEP FOUR result, whichever applies; plus

(B) an amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

The maximum levy is to include the portion of any excessive levy and the levy for new facilities.

STEP SIX: Determine the result of:

(A) the STEP FIVE result; plus

(B) the product of:

(i) the weighted average of the amounts determined under

IC 21-3-1.7-6.7(e) STEP NINE for all charter schools attended by students who have legal settlement in the school corporation; multiplied by

(ii) thirty-five hundredths (0.35).

In determining the number of students for purposes of this STEP, each kindergarten pupil shall be counted as one-half (1/2) pupil.

The result determined under this STEP may not be included in the school corporation's adjusted base levy for the year following the year in which the result applies or in the school corporation's determination of tuition support.

(c) For purposes of this section, "total assessed value" ~~as adjusted under subsection (d)~~, with respect to a school corporation means the total assessed value of all taxable property for ad valorem property taxes first due and payable during that year.

~~(d) The department of local government finance may adjust the total assessed value of a school corporation to eliminate the effects of appeals and settlements arising from a statewide general reassessment of real property.~~

~~(e)~~ (d) The department of local government finance shall annually establish an assessment ratio and adjustment factor for each school corporation to be used upon the review and recommendation of the budget committee. The information compiled, including background documentation, may not be used in a:

- (1) review of an assessment under IC 6-1.1-8, IC 6-1.1-13, IC 6-1.1-14, or IC 6-1.1-15;
- (2) petition for a correction of error under IC 6-1.1-15-12; or
- (3) petition for refund under IC 6-1.1-26.

~~(f)~~ (e) All tax rates shall be computed by rounding the rate to the nearest one-hundredth of a cent (\$0.0001). All tax levies shall be computed by rounding the levy to the nearest dollar amount.

~~(g)~~ (f) For the calendar year beginning January 1, 2004, and ending December 31, 2004, a school corporation may impose a general fund ad valorem property tax levy in the amount determined under STEP ~~SEVEN~~ EIGHT of the following formula:

STEP ONE: Determine the quotient of:

- (A) the school corporation's 2003 assessed valuation; divided by

(B) the school corporation's 2002 assessed valuation.

STEP TWO: Determine the greater of zero (0) or the difference between:

(A) the STEP ONE amount; minus

(B) one (1).

STEP THREE: Determine the lesser of eleven-hundredths (0.11) or the product of:

(A) the STEP TWO amount; multiplied by

(B) eleven-hundredths (0.11).

STEP FOUR: Determine the sum of:

(A) the STEP THREE amount; plus

(B) one (1).

STEP FIVE: Determine the product of:

(A) the STEP FOUR amount; multiplied by

(B) the school corporation's general fund ad valorem property tax levy for calendar year 2003.

STEP SIX: Determine the lesser of:

(A) the STEP FIVE amount; or

(B) the levy resulting from using the school corporation's previous year property tax rate after increasing the rate by five cents (\$0.05).

STEP SEVEN: Determine the result of:

(A) the STEP SIX amount; plus

(B) an amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

The maximum levy is to include the part of any excessive levy and the levy for new facilities.

STEP EIGHT: Determine the result of:

(A) the STEP SEVEN result; plus

(B) the product of:

(i) the weighted average of the amounts determined under IC 21-3-1.7-6.7(e) STEP NINE for all charter schools attended by students who have legal settlement in the school corporation; multiplied by

(ii) thirty-five hundredths (0.35).

In determining the number of students for purposes of this

STEP, each kindergarten pupil shall be counted as one-half (1/2) pupil.

The result determined under this STEP may not be included in the school corporation's adjusted base levy for the year following the year in which the result applies or in the school corporation's determination of tuition support.

SECTION 28. IC 6-1.1-19-1.7, AS AMENDED BY P.L.90-2002, SECTION 174, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.7. (a) As used in this section, "levy excess" means that portion of the ad valorem property tax levy actually collected by a school corporation, for taxes first due and payable during a particular calendar year, which exceeds the school corporation's total levy, as approved by the department of local government finance under IC 6-1.1-17, for those property taxes.

(b) A school corporation's levy excess is valid, and the general fund portion of a school corporation's levy excess may not be contested on the grounds that it exceeds the school corporation's general fund levy limit for the applicable calendar year. However, the school corporation shall deposit, except as provided in subsection (h), ~~that portion of a school corporation's~~ its levy excess ~~which exceeds one hundred two percent (102%) of the school corporation's total levy, as approved by the department of local government finance under IC 6-1.1-17, for the applicable calendar year;~~ in a special fund to be known as the school corporation's levy excess fund.

(c) The chief fiscal officer of a school corporation may invest money in the school corporation's levy excess fund in the same manner in which money in the school corporation's general fund may be invested. However, any income derived from investment of the money shall be deposited in and become a part of the levy excess fund.

(d) The department of local government finance ~~may~~ **shall** require a school corporation to include the amount in the school corporation's levy excess fund in the school corporation's budget fixed under IC 6-1.1-17.

(e) Except as provided in subsection (f), a school corporation may not spend any money in its levy excess fund until the expenditure of the money has been included in a budget that has been approved by the department of local government finance under IC 6-1.1-17. For purposes of fixing its budget and for purposes of the **ad valorem**

property tax levy limits fixed under this chapter, a school corporation shall treat the money in its levy excess fund that the department of local government finance permits the school corporation to spend during a particular calendar year as part of the school corporation's ad valorem property tax levy for that same calendar year.

(f) A school corporation may transfer money from its levy excess fund to its other funds to reimburse those funds for amounts withheld from the school corporation as a result of refunds paid under IC 6-1.1-26.

(g) Subject to the limitations imposed by this section, a school corporation may use money in its levy excess fund for any lawful purpose for which money in any of its other funds may be used.

(h) If the amount that would be deposited in the levy excess fund of a school corporation for a particular calendar year is less than one hundred dollars (\$100), no money shall be deposited in the levy excess fund of the school corporation for that year.

SECTION 29. IC 6-1.1-19-4.7, AS AMENDED BY P.L.90-2002, SECTION 182, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.7. (a) With respect to every appeal petition that:

(1) is delivered to the tax control board by the department of local government finance under section 4.1 of this chapter; and

(2) includes a request for emergency relief for the purpose of making up a shortfall that has resulted:

(A) whenever:

(i) erroneous assessed valuation figures were provided to the school corporation;

(ii) erroneous figures were used to determine the school corporation's total property tax rate; and

(iii) the school corporation's general fund tax levy was reduced under IC 6-1.1-17-16(d); or

(B) **whenever the assessed valuation figures that were provided to and used by the school corporation to determine the property tax rate did not accurately reflect because of the payment of refunds that resulted from appeals filed by property owners; under this article and IC 6-1.5;**

the tax control board shall recommend to the department of local government finance that the school corporation receive emergency

financial relief. The relief shall be in the form specified in section 4.5(b)(1) through 4.5(b)(7) of this chapter, or in a combination of the forms of relief specified in section 4.5(b)(1) through 4.5(b)(7) of this chapter.

(b) The tax control board shall, if the tax control board determines that a shortfall exists as described in subsection (a), recommend that a school corporation that appeals for the purpose stated in subsection (a) be permitted to collect an excessive tax levy for a specified calendar year in the amount of the difference between:

(1) the school corporation's property tax levy for a particular year as finally approved by the department of local government finance; and

(2) the school corporation's actual property tax levy for the particular year.

(c) With respect to each appeal petition that:

(1) is delivered to the tax control board by the department of local government finance under section 4.1 of this chapter;

(2) includes a request for emergency relief for the purpose of making up a shortfall that has resulted because of a delinquent property taxpayer; and

(3) the tax control board finds that the balance in the school corporation's levy excess fund plus the property taxes collected for the school corporation is less than ninety-eight percent (98%) of the school corporation's property tax levy for that year, as finally approved by the department of local government finance;

the tax control board may recommend to the department of local government finance that the school corporation receive emergency financial relief in the form specified in section 4.5(b)(1) through 4.5(b)(7) of this chapter and be permitted to collect an excessive tax levy for a specified calendar year in the amount of the difference between the school corporation's property tax levy for a particular year, as finally approved by the department, and the school corporation's actual property tax collections plus any balance in the school corporation's levy excess fund.

(d) Every recommendation made by the tax control board under this section shall specify the amount of the excessive tax levy. The department of local government finance ~~shall~~ **may** authorize the school board to make an excessive tax levy in accordance with the

recommendation without any other proceeding. Whenever the department of local government finance authorizes an excessive tax levy under this subsection, the department shall take appropriate steps to ensure that the proceeds of the excessive tax levy are first used to repay any loan authorized under sections 4.3 through 5.3 of this chapter.

SECTION 30. IC 6-1.1-20-3.1, AS AMENDED BY P.L.178-2002, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004]: Sec. 3.1. A political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

- (1) The proper officers of a political subdivision shall:
 - (A) publish notice in accordance with IC 5-3-1; and
 - (B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.
- (2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:
 - (A) publication in accordance with IC 5-3-1; and
 - (B) first class mail to the organizations described in subdivision (1)(B).
- (3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:
 - (A) The maximum term of the bonds or lease.
 - (B) The maximum principal amount of the bonds or the maximum lease rental for the lease.
 - (C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
 - (D) The purpose of the bonds or lease.
 - (E) A statement that any owners of real property within the political subdivision who want to initiate a petition and

remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(F) With respect to bonds issued or a lease entered into to open:

- (i) a new school facility; or
- (ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

(G) A statement of whether the school corporation expects to appeal as described in IC 6-1.1-19-4.4(a)(4) for an increased adjusted base levy to pay the estimated costs described in clause (F).

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

- (A) ~~two~~ **one** hundred ~~fifty (250)~~ **(100)** owners of real property within the political subdivision; or
- (B) ~~ten~~ **five** percent ~~(10%)~~ **(5%)** of the owners of real property within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county auditor's designated printer the petition forms to be used solely in the petition process described in this section. The county auditor shall issue to an owner or owners of real property within the political subdivision the number of petition forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that:

- (A) the carrier and signers must be owners of real property;**
- (B) the carrier must be a signatory on at least one (1) petition;**
- (C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and**

(D) govern the closing date for the petition period.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county auditor under subdivision ~~(6)~~: **(7)**.

~~(6)~~ **(7)** Each petition must be filed with the county auditor not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

~~(7)~~ **(8)** The county auditor must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within fifteen (15) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

SECTION 31. IC 6-1.1-20-3.2, AS AMENDED BY P.L.178-2002, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004]: Sec. 3.2. If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

- (A) publication in accordance with IC 5-3-1; and
- (B) first class mail to the organizations described in section 3.1(1)(B) of this chapter.

A notice under this subdivision must include a statement that any owners of real property within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

- (A) petitions (described in subdivision (3)) in favor of the bonds or lease; and
- (B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of real property within the political subdivision. Each signature on a petition must be dated and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the county auditor under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county auditor's designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county auditor shall issue to an owner or owners of real property within the political subdivision the number of petition or remonstrance forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that:

- (A) the carrier and signers must be owners of real property;
- (B) the carrier must be a signatory on at least one (1) petition;
- (C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; ~~and~~

(D) govern the closing date for the petition and remonstrance period; **and**

(E) apply to the carrier under section 10 of this chapter.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners. The county auditor may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county auditor shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county auditor within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county auditor must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within fifteen (15) business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county auditor may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of real property within the political subdivision.

(6) If a greater number of owners of real property within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the county auditor's certificate under subdivision (5). Withdrawal of a petition carries the same consequences as a defeat of the

petition.

(7) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance required by IC 6-1.1-18.5-8 or IC 6-1.1-19-8.

SECTION 32. IC 6-1.1-20-10 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004]: **Sec. 10. (a) If a petition and remonstrance process is commenced under section 3.2 of this chapter, during the sixty (60) day period commencing with the notice under section 3.2(1) of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:**

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the petition or remonstrance, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the petition or remonstrance (except as necessary to explain the project to the public) or to pay for the gathering of signatures on a petition or remonstrance. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the petition or remonstrance during the employee's normal working hours or paid overtime.

(4) In the case of a school corporation, promoting a position on a petition or remonstrance by:

(A) using students to transport written materials to their residences; or

(B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a petition or remonstrance that are part of the normal and regular conduct of the employee's office or agency.

(b) A person may not solicit or collect signatures for a petition or remonstrance on property owned or controlled by the political subdivision.

SECTION 33. IC 6-1.1-21-2, AS AMENDED BY P.L.224-2003, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5, is to be filed on or before March 1 of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated

assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:

(i) ~~IC 6-1.1-18.5-13(5)~~ **IC 6-1.1-18.5-13(4)** and ~~IC 6-1.1-18.5-13(6)~~ **IC 6-1.1-18.5-13(5)** filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

(i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6

(repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
 (ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
 (G) the amount of property taxes imposed in the county for the stated assessment year under:

- (i) IC 21-2-15 for a capital projects fund; plus
- (ii) IC 6-1.1-19-10 for a racial balance fund; plus
- (iii) IC 20-14-13 for a library capital projects fund; plus
- (iv) IC 20-5-17.5-3 for an art association fund; plus
- (v) IC 21-2-17 for a special education preschool fund; plus
- (vi) IC 21-2-11.6 for a referendum tax levy fund; plus
- (vii) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus
- (viii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5 or any other law; minus

(I) for each township in the county, the lesser of:

- (i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE, whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from an appeal described in ~~IC 6-1.1-18.5-13(5)~~ **IC 6-1.1-18.5-13(4)** filed after December 31, 1982; or

- (ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus
- (J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus
- (K) for each county, the sum of:
 - (i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b); and
 - (ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) for property taxes payable in each year after 1995; plus
- (2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus
- (3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus
- (4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus
- (5) the difference between:
 - (A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus
 - (B) the amount the civil taxing units' levies were increased

because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare on or before March 1 of each year under IC 6-1.1-22-3.

(j) "Eligible property tax replacement amount" is equal to the sum of the following:

(1) Sixty percent (60%) of the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year.

(2) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on real property for a stated assessment year.

(3) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on tangible personal property, excluding business personal property, for an assessment year.

(k) "Business personal property" means tangible personal property (other than real property) that is being:

- (1) held for sale in the ordinary course of a trade or business; or
- (2) held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means the sum of the following:

(1) Sixty percent (60%) of a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund for a stated assessment year.

(2) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on real property.

(3) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent

(60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on tangible personal property other than business personal property.

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund.

SECTION 34. IC 6-1.1-21-5, AS AMENDED BY P.L.1-2003, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each year the taxpayers of each county shall receive a credit for property tax replacement in the amount of each taxpayer's property tax replacement credit amount for taxes which:

(1) under IC 6-1.1-22-9 are due and payable in May and November of that year; **or**

(2) under IC 6-1.1-22-9.5 are due in installments established by the department of local government finance for that year.

The credit shall be applied to each installment of taxes. The dollar amount of the credit for each taxpayer shall be determined by the county auditor, based on data furnished by the department of local government finance.

(b) The tax liability of a taxpayer for the purpose of computing the credit for a particular year shall be based upon the taxpayer's tax liability as is evidenced by the tax duplicate for the taxes payable in that year, plus the amount by which the tax payable by the taxpayer had been reduced due to the application of county adjusted gross income tax revenues to the extent the county adjusted gross income tax revenues were included in the determination of the total county tax levy for that year, as provided in sections 2(g) and 3 of this chapter, adjusted, however, for any change in assessed valuation which may have been made pursuant to a post-abstract adjustment if the change is set forth on the tax statement or on a corrected tax statement stating the taxpayer's tax liability, as prepared by the county treasurer in accordance with IC 6-1.1-22-8(a). However, except when using the term under section 2(1)(1) of this chapter, the tax liability of a taxpayer does not include the amount of any property tax owed by the taxpayer that is attributable to that part of any property tax levy subtracted under

section 2(g)(1)(B), 2(g)(1)(C), 2(g)(1)(D), 2(g)(1)(E), 2(g)(1)(F), 2(g)(1)(G), 2(g)(1)(H), 2(g)(1)(I), 2(g)(1)(J), or 2(g)(1)(K) of this chapter in computing the total county tax levy.

(c) The credit for taxes payable in a particular year with respect to mobile homes which are assessed under IC 6-1.1-7 is equivalent to the taxpayer's property tax replacement credit amount for the taxes payable with respect to the assessments plus the adjustments stated in this section.

(d) Each taxpayer in a taxing district that contains all or part of an economic development district that meets the requirements of section 5.5 of this chapter is entitled to an additional credit for property tax replacement. This credit is equal to the product of:

- (1) the STEP TWO quotient determined under section 4(a)(3) of this chapter for the taxing district; multiplied by
- (2) the taxpayer's taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

SECTION 35. IC 6-1.1-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in IC 6-1.1-7-7, **section 9.5 of this chapter**, and subsection (b), the property taxes assessed for a year under this article are due in two (2) equal installments on May 10 and November 10 of the following year.

(b) A county council may adopt an ordinance to require a person to pay ~~his~~ **the person's** property tax liability in one (1) installment, if the tax liability for a particular year is less than twenty-five dollars (\$25). If the county council has adopted such an ordinance, then whenever a tax statement mailed under section 8 of this chapter shows that the person's property tax liability for a year is less than twenty-five dollars (\$25) for the property covered by that statement, the tax liability for that year is due in one (1) installment on May 10 of that year.

(c) If property taxes are not paid on or before the due date, the penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent taxes.

(d) Notwithstanding any other law, a property tax liability of less than five dollars (\$5) is increased to five dollars (\$5). The difference between the actual liability and the five dollar (\$5) amount that appears on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.

SECTION 36. IC 6-1.1-22-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.5. (a) This section applies only to property taxes first due and payable in a year that begins after December 31, 2003:**

(1) with respect to a homestead (as defined in IC 6-1.1-20.9-1); and

(2) that are not payable in one (1) installment under section 9(b) of this chapter.

(b) At any time before the mailing or transmission of tax statements for a year under section 8 of this chapter, a county may petition the department of local government finance to establish a schedule of installments for the payment of property taxes with respect to:

(1) real property that are based on the assessment of the property in the immediately preceding year; or

(2) a mobile home or manufactured home that is not assessed as real property that are based on the assessment of the property in the current year.

The county fiscal body (as defined in IC 36-1-2-6), the county auditor, and the county treasurer must approve a petition under this subsection.

(c) The department of local government finance:

(1) may not establish a date for:

(A) an installment payment that is earlier than May 10 of the year in which the tax statement is mailed or transmitted;

(B) the first installment payment that is later than November 10 of the year in which the tax statement is mailed or transmitted; or

(C) the last installment payment that is later than May 10 of the year immediately following the year in which the tax statement is mailed or transmitted; and

(2) shall:

(A) prescribe the form of the petition under subsection (b);

(B) determine the information required on the form; and

(C) notify the county fiscal body, the county auditor, and the county treasurer of the department's determination on the petition not later than twenty (20) days after receiving

the petition.

(d) Revenue from property taxes paid under this section in the year immediately following the year in which the tax statement is mailed or transmitted under section 8 of this chapter:

(1) is not considered in the determination of a levy excess under IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7 for the year in which the property taxes are paid; and

(2) may be:

(A) used to repay temporary loans entered into by a political subdivision for; and

(B) expended for any other reason by a political subdivision in the year the revenue is received under an appropriation from;

the year in which the tax statement is mailed or transmitted under section 8 of this chapter.

SECTION 37. IC 6-1.1-22.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 22.5. Provisional Property Tax Statements

Sec. 1. As used in this chapter, "commissioner" refers to the commissioner of the department of local government finance.

Sec. 2. As used in this chapter, "provisional statement" refers to a provisional property tax statement required by section 6 of this chapter.

Sec. 3. As used in this chapter, "property taxes" include special assessments.

Sec. 4. As used in this chapter, "reconciling statement" refers to a reconciling property tax statement required by section 11 of this chapter.

Sec. 5. As used in this chapter, "tax liability" includes liability for special assessments and refers to liability for property taxes after the application of all allowed deductions and credits.

Sec. 6. (a) With respect to property taxes payable under this article on assessments determined for the 2003 assessment date or the assessment date in any later year, the county treasurer may, except as provided by section 7 of this chapter, use a provisional statement under this chapter if the county auditor fails to deliver the abstract for that assessment date to the county treasurer under IC 6-1.1-22-5 before March 16 of the year following the assessment

date.

(b) The county treasurer shall give notice of the provisional statement, including disclosure of the method that is to be used in determining the tax liability to be indicated on the provisional statement, by publication one (1) time:

(1) in the form prescribed by the department of local government finance; and

(2) in the manner described in IC 6-1.1-22-4(b).

The notice may be combined with the notice required under section 10 of this chapter.

Sec. 7. (a) The county auditor of a county or fifty (50) property owners in the county may, not more than five (5) days after the publication of the notice required under section 6 of this chapter, request in writing that the department of local government finance waive the use of a provisional statement under this chapter as to that county for a particular assessment date.

(b) Upon receipt of a request under subsection (a), the department of local government finance shall give notice of a hearing concerning the request in the manner provided by IC 5-3-1. The notice must state:

(1) the date and time of the hearing;

(2) the location of the hearing, which must be in the county; and

(3) that the purpose of the hearing is to hear:

(A) the request of the county treasurer and county auditor to waive the requirements of this chapter; and

(B) taxpayers' comments regarding that request.

(c) After the hearing, the department of local government finance may waive the use of a provisional statement under this chapter for a particular assessment date as to the county making the request if the department finds that the petitioners have presented sufficient evidence to establish that although the abstract required by IC 6-1.1-22-5 was not delivered in a timely manner:

(1) the abstract;

(A) was delivered as of the date of the hearing; or

(B) will be delivered not later than a date specified by the county auditor and county treasurer; and

(2) sufficient time remains or will remain after the date or anticipated date of delivery of the abstract to:

- (A) permit the timely preparation and delivery of property tax statements in the manner provided by IC 6-1.1-22; and
- (B) render the use of a provisional statement under this chapter unnecessary.

Sec. 8. A provisional statement must:

- (1) be on a form approved by the state board of accounts;
- (2) except as provided in emergency rules adopted under section 20 of this chapter, indicate tax liability in the amount of ninety percent (90%) of the tax liability that was payable in the same year as the assessment date for the property for which the provisional statement is issued;
- (3) indicate:

- (A) that the tax liability under the provisional statement is determined as described in subdivision (2); and

- (B) that property taxes billed on the provisional statement:

- (i) are due and payable in the same manner as property taxes billed on a tax statement under IC 6-1.1-22-8; and

- (ii) will be credited against a reconciling statement;

- (4) include the following statement:

"Under Indiana law, _____ County (insert county) has elected to send provisional statements because the county did not complete the abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in (insert year) in each taxing district before March 16, (insert year). The statement is due to be paid in installments on May 10 and November 10. The statement is based on ninety percent (90%) of your tax liability for taxes payable in (insert year), subject to adjustment for any new construction on your property. After the abstract of property is complete, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in (insert year), minus the amount you pay under this provisional statement.";

- (5) indicate liability for:

- (A) delinquent:

- (i) taxes; and

- (ii) special assessments;

- (B) penalties; and

- (C) interest;

is allowed to appear on the tax statement under IC 6-1.1-22-8

for the May installment of property taxes in the year in which the provisional tax statement is issued; and

(6) include any other information the county treasurer requires.

Sec. 9. Except as provided in section 12 of this chapter, property taxes billed on a provisional statement are due in two (2) equal installments on May 10 and November 10 of the year following the assessment date covered by the provisional statement.

Sec. 10. If a provisional statement is used, the county treasurer shall give not notice of tax rates required under IC 6-1.1-22-4 for the reconciling statement.

Sec. 11. As soon as possible after the receipt of the abstract referred to in section 6 of this chapter, the county treasurer shall:

- (1) give the notice required by IC 6-1.1-22-4; and
- (2) mail or transmit reconciling statements under section 12 of this chapter.

Sec. 12. (a) Except as provided by subsection (c), each reconciling statement must indicate:

- (1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;
- (2) the total amount paid under the provisional statement for the property for which the reconciling statement is issued;
- (3) if the amount under subdivision (1) exceeds the amount under subdivision (2), that the excess is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

- (i) thirty (30) days after the date of the reconciling statement; or
 - (ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and
- (4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(b) If, upon receipt of the abstract referred to in section 6 of this chapter, the county treasurer determines that it is possible to complete the:

- (1) preparation; and**
- (2) mailing or transmittal;**

of the reconciling statement at least thirty (30) days before the due date of the November installment specified in the provisional statement, the county treasurer may request in writing that the department of local government finance permit the county treasurer to issue a reconciling statement that adjusts the amount of the November installment that was specified in the provisional statement. If the department approves the county treasurer's request, the county treasurer shall prepare and mail or transmit the reconciling statement at least thirty (30) days before the due date of the November installment specified in the provisional statement.

(c) A reconciling statement prepared under subsection (b) must indicate:

- (1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;**
- (2) the total amount of the May installment paid under the provisional statement for the property for which the reconciling statement is issued;**
- (3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount of the November installment that is payable by the taxpayer:**
 - (A) as a final reconciliation of the tax liability; and**
 - (B) not later than:**
 - (i) November 10; or**
 - (ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and**
- (4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.**

Sec. 13. Taxpayers shall make all payments under this chapter to the county treasurer. The board of county commissioners may authorize the county treasurer to open temporary offices to receive payments under this chapter in municipalities in the county other than the county seat.

Sec. 14. Not later than fifty-one (51) days after the due date of

a provisional or reconciling statement under this chapter, the county auditor shall:

- (1) file with the auditor of state a report of settlement; and
- (2) distribute tax collections to the appropriate taxing units.

Sec. 15. If a county auditor fails to make a distribution of tax collections under section 14 of this chapter, a taxing unit that was to receive a distribution may recover interest on the undistributed tax collections at the same rate and in the same manner that interest may be recovered under IC 6-1.1-27-1(b).

Sec. 16. IC 6-1.1-15:

- (1) does not apply to a provisional statement; and
- (2) applies to a reconciling statement.

Sec. 17. IC 6-1.1-37-10 applies to:

- (1) a provisional statement; and
- (2) a reconciling statement;

in the same manner that IC 6-1.1-37-10 applies to an installment of property taxes.

Sec. 18. For purposes of IC 6-1.1-24-1(a)(1):

- (1) the May installment on a provisional statement is considered to be the taxpayer's spring installment of property taxes;
- (2) except as provided in subdivision (3), payment on a reconciling statement is considered to be due before the due date of the May installment of property taxes payable in the following year; and
- (3) payment on a reconciling statement described in section 12(b) of this chapter is considered to be the taxpayer's fall installment of property taxes.

Sec. 19. The other provisions of this article supplement the provisions of this chapter concerning the collection of property taxes.

Sec. 20. For purposes of a provisional statement under this chapter, the department of local government finance may adopt emergency rules under IC 4-22-2-37.1 to provide a methodology for a county treasurer to issue provisional statements with respect to real property, taking into account new construction of improvements placed on the real property, damage, and other losses related to the real property:

- (1) after March 1 of the year preceding the assessment date to

which the provisional statement applies; and

(2) before the assessment date to which the provisional statement applies.

SECTION 38. IC 6-1.1-31-3, AS AMENDED BY P.L.90-2002, SECTION 219, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. In the preparation of rules, regulations, property tax forms, and property tax returns, the department of local government finance may consider:

- (1) data compiled by the federal government;
- (2) data compiled by this state and its taxing authorities;
- (3) data compiled and studies made by a state college or university;
- (4) generally accepted practices of appraisers, including generally accepted property assessment valuation and mass appraisal principles and practices;
- (5) generally accepted indices of construction costs;
- (6) for assessment dates after February 28, 2001, generally accepted indices of income accruing from real property;
- (7) sales data compiled for generally comparable properties;**
- and
- ~~(7)~~ **(8)** any other information which is available to the department of local government finance.

SECTION 39. IC 6-1.1-31-5, AS AMENDED BY P.L.90-2002, SECTION 221, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **Subject to this article,** the rules ~~promulgated~~ **adopted** by the department of local government finance are the basis for determining the true tax value of tangible property.

(b) Local assessing officials, members of the county property tax assessment board of appeals, and county assessors shall:

- (1) comply with the rules, appraisal manuals, bulletins, and directives adopted by the department of local government finance;
- (2) use the property tax forms, property tax returns, and notice forms prescribed by the department; and
- (3) collect and record the data required by the department.

(c) In assessing tangible property, the township assessors, members of the county property tax assessment board of appeals, and county assessors may consider factors in addition to those prescribed by the

department of local government finance if the use of the additional factors is first approved by the department. Each township assessor, of the county property tax assessment board of appeals, and the county assessor shall indicate on his records for each individual assessment whether:

- (1) only the factors contained in the department's rules, forms, and returns have been considered; or
- (2) factors in addition to those contained in the department's rules, forms, and returns have been considered.

SECTION 40. IC 6-1.1-31-6, AS AMENDED BY P.L.90-2002, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) With respect to the assessment of real property, the rules of the department of local government finance shall provide for:

- (1) the classification of land on the basis of:
 - (i) acreage;
 - (ii) lots;
 - (iii) size;
 - (iv) location;
 - (v) use;
 - (vi) productivity or earning capacity;
 - (vii) applicable zoning provisions;
 - (viii) accessibility to highways, sewers, and other public services or facilities; and
 - (ix) any other factor that the department determines by rule is just and proper; and
- (2) the classification of improvements on the basis of:
 - (i) size;
 - (ii) location;
 - (iii) use;
 - (iv) type and character of construction;
 - (v) age;
 - (vi) condition;
 - (vii) cost of reproduction; and
 - (viii) any other factor that the department determines by rule is just and proper.

(b) With respect to the assessment of real property, the rules of the department of local government finance shall include instructions for

determining:

- (1) the proper classification of real property;
- (2) the size of real property;
- (3) the effects that location and use have on the value of real property;
- (4) the depreciation, including physical deterioration and obsolescence, of real property;
- (5) the cost of reproducing improvements;
- (6) the productivity or earning capacity of:

(A) agricultural land; and

(B) real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more;

(7) sales data for generally comparable properties; and

~~(7)~~ **(8) the true tax value of real property based on the factors listed in this subsection and any other factor that the department determines by rule is just and proper.**

(c) With respect to the assessment of real property, true tax value does not mean fair market value. **Subject to this article**, true tax value is the value determined under the rules of the department of local government finance.

SECTION 41. IC 6-1.1-31-7, AS AMENDED BY P.L.90-2002, SECTION 223, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) With respect to the assessment of personal property, the rules of the department of local government finance shall provide for the classification of personal property on the basis of:

- (1) date of purchase;
- (2) location;
- (3) use;
- (4) depreciation, obsolescence, and condition; and
- (5) any other factor that the department determines by rule is just and proper.

(b) With respect to the assessment of personal property, the rules of the department of local government finance shall include instructions for determining:

- (1) the proper classification of personal property;
- (2) the effect that location has on the value of personal property;

- (3) the cost of reproducing personal property;
- (4) the depreciation, including physical deterioration and obsolescence, of personal property;
- (5) the productivity or earning capacity of mobile homes regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more;**
- (6) sales data for generally comparable mobile homes; and**
- ~~(5)~~ (7) the true tax value of personal property based on the factors listed in this subsection and any other factor that the department determines by rule is just and proper.

(c) In providing for the classification of personal property and the instructions for determining the items listed in subsection (b), the department of local government finance shall not include the value of land as a cost of producing tangible personal property subject to assessment.

(d) With respect to the assessment of personal property, true tax value does not mean fair market value. **Subject to this article**, true tax value is the value determined under rules of the department of local government finance.

SECTION 42. IC 6-1.1-35-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.1. **(a)** Each county assessor and each elected assessor ~~must be a certified who has not attained the certification of a "level two" assessor-appraiser under IC 6-1.1-35.5~~ **or must** employ at least one (1) certified "level two" assessor-appraiser.

(b) Each elected county assessor, township assessor, or elected trustee-assessor ~~is expected to~~ **must:**

- (1) attain the certification of a "level one" assessor-appraiser within one (1) year after taking office; and**
- (2) attain the certification of a "level two" assessor-appraiser within two (2) years after taking office.**

An assessor or trustee-assessor who does not comply with this subsection forfeits the assessor's or trustee-assessor's office.

(c) A county assessor, township assessor, or trustee-assessor appointed to fill a vacancy resulting from a forfeiture of office under subsection (b) is subject to the requirements of subsection (b).

SECTION 43. IC 6-1.1-35.5-1, AS AMENDED BY P.L.90-2002,

SECTION 253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004]: Sec. 1. The department of local government finance shall conduct an assessor-appraiser examination and certification program. **The department shall design and implement the program in a manner that maximizes the number of certified assessor-appraisers involved in the assessment process.**

SECTION 44. IC 6-1.1-35.5-4, AS AMENDED BY P.L.90-2002, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004]: Sec. 4. (a) The level one examination shall be given in July, and the level two examination shall be given in August. Both level examinations also shall be offered annually immediately following the conference of the department of local government finance and at any other times that coordinate with training sessions conducted under IC 6-1.1-35.2-2. The department of local government finance may also give either or both examinations at other times throughout the year.

(b) Examinations shall be held each year, at the times prescribed in subsection (a), in Indianapolis and at not less than four (4) other convenient locations chosen by the department of local government finance.

(c) The department of local government finance may not limit the number of individuals who take the examination and shall provide an opportunity for all enrollees at each session to take the examination at that session.

(d) The department of local government finance shall:

- (1) give both the level one examination and the level two examination in an open book format; and**
- (2) design both examinations to approximate the work an assessing official is required to perform, including the use of appropriate computer applications.**

SECTION 45. IC 6-1.1-37-9, AS AMENDED BY P.L.198-2001, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies when:

- (1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;
- (2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or (a)(2) while a petition for review or

a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding; or

(3) the collection of certain ad valorem property taxes has been stayed under IC 4-21.5-5-9, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of ten percent (10%) per year from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is ultimately required to pay in excess of the amount that the taxpayer is required to pay under IC 6-1.1-15-10(a)(1) while a petition for review or a judicial proceeding has been pending at the overpayment rate established under Section 6621(c)(1) of the Internal Revenue Code in effect on the original due date or dates for those taxes from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(d) With respect to an action or determination described in subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:

(1) the next May 10; or

(2) the next November 10;

whichever occurs first.

(e) A taxpayer shall, **to the extent that the penalty is not waived under section 10.5 of this chapter**, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for

payment prescribed in subsection (d) if:

- (1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and
- (2) the taxpayer either:
 - (A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or
 - (B) voluntarily signed and filed an assessment return for the taxes.

(f) If subsection (e) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, **to the extent that the penalty is not waived under section 10.5 of this chapter**, begin paying the penalty prescribed in section 10 of this chapter on:

- (1) the next May 10 which follows the date for payment prescribed in subsection (d); or
- (2) the next November 10 which follows the date for payment prescribed in subsection (d);

whichever occurs first.

(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:

- (1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;
- (2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and
- (3) the assessment:
 - (A) would have been made on the normal assessment date if the error or neglect had not occurred; or
 - (B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.

SECTION 46. IC 6-1.1-37-10, AS AMENDED BY P.L.90-2002, SECTION 262, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) **Except as provided in section 10.5 of this chapter**, if an installment of property taxes is not

completely paid on or before the due date, a penalty equal to ten percent (10%) of the amount of delinquent taxes shall be added to the unpaid portion in the year of the initial delinquency.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates in May and November of each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. **With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:**

(1) six (6) months; or

(2) a multiple of six (6) months.

(c) ~~These~~ The penalties under subsection (b) are imposed only on the principal amount of the delinquent taxes. ~~However,~~

(d) If the department of local government finance determines that an emergency has occurred which precludes the mailing of the tax statement in any county at the time set forth in IC 6-1.1-22-8, the department shall establish by order a new date on which the installment of taxes in that county is due and no installment is delinquent if paid by the date so established.

~~(b)~~ (e) If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one (1) of those holidays.

~~(c)~~ (f) A payment to the county treasurer is considered to have been paid by the due date if the payment is:

(1) received on or before the due date to the county treasurer or a collecting agent appointed by the county treasurer;

(2) deposited in the United States mail:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) certified or postmarked by the United States Postal Service as mailed on or before the due date; or

(3) deposited with a nationally recognized express parcel carrier

and is:

- (A) properly addressed to the principal office of the county treasurer; and
- (B) verified by the express parcel carrier as:
 - (i) paid in full for final delivery; and
 - (ii) received on or before the due date.

For purposes of this subsection, "postmarked" does not mean the date printed by a postage meter that affixes postage to the envelope or package containing a payment.

SECTION 47. IC 6-1.1-37-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. (a) This section applies only to property taxes first due and payable in 2004 with respect to a homestead (as defined in IC 6-1.1-20.9-1).**

(b) A county may petition the department of local government finance to waive all or part of the penalty imposed under section 10(a) of this chapter. The county fiscal body (as defined in IC 36-1-2-6), the county auditor, and the county treasurer must approve a petition under this subsection.

(c) The department of local government finance shall:

- (1) prescribe the form of the petition under subsection (b);**
- (2) determine the information required on the form; and**
- (3) notify the county fiscal body, the county auditor, and the county treasurer of the department's determination on the petition not later than thirty (30) days after receipt of the petition.**

SECTION 48. IC 6-1.1-39-6, AS AMENDED BY P.L.192-2002(ss), SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) An economic development district may be enlarged by the fiscal body by following the same procedure for the creation of an economic development district specified in this chapter. Property taxes that are attributable to the additional area and allocable to the economic development district are not eligible for the property tax replacement credit provided by IC 6-1.1-21-5. However, subject to subsection (c) and except as provided in subsection (f), each taxpayer in an additional area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in May and November of that year. Except as provided in subsection**

(f), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district in a county that contains all or part of the additional area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to a special fund under section 5 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the economic development district and paid into a special fund under section 5(a) of this chapter.

(b) If the additional credit under subsection (a) is not reduced under subsection (c) or (d), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (a) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an additional area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (a) shall be combined on the tax statements sent to each taxpayer.

(c) The county fiscal body may, by ordinance, provide that the additional credit described in subsection (a):

(1) does not apply in a specified additional area; or

(2) is to be reduced by a uniform percentage for all taxpayers in a specified additional area.

(d) Whenever the county fiscal body determines that granting the full additional credit under subsection (a) would adversely affect the

interests of the holders of bonds or other contractual obligations that are payable from allocated tax proceeds in that economic development district in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the county fiscal body must adopt an ordinance under subsection (c) to deny the additional credit or reduce the additional credit to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. An ordinance adopted under subsection (c) denies or reduces the additional credit for taxes (as defined in IC 6-1.1-21-2) first due and payable in any year following the year in which the ordinance is adopted.

(e) An ordinance adopted under subsection (c) remains in effect until the ordinance is rescinded by the body that originally adopted the ordinance. However, an ordinance may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that economic development district in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If an ordinance is rescinded and no other ordinance is adopted, the additional credit described in subsection (a) applies to taxes (as defined in IC 6-1.1-21-2) first due and payable in each year following the year in which the resolution is rescinded.

(f) This subsection applies to an additional area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an additional area is entitled to an additional credit under subsection (a) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 49. IC 6-3-1-3.5, AS AMENDED BY P.L.105-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3.5. When used in this article, the term

"adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a

political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, ~~IC 12-10-6-2~~, **IC 12-10-6-2.1**, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the

individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) **for a taxable year:**

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.
- (3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made

under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 50. IC 8-22-3.5-10, AS AMENDED BY P.L.192-2002(ss), SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except in a county described in section 1(5) of this chapter **and except as provided in subsection (d)**, if the commission adopts the provisions of this section by resolution, each taxpayer in the airport development zone is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that, under IC 6-1.1-22-9, are due and payable in May and November of that year. **Except as provided in subsection (d)**, one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the airport development zone:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to the special funds under section 9 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated and paid into the special funds under section 9 of this chapter.

(b) The additional credit under subsection (a) shall be:

(1) computed on an aggregate basis of all taxpayers in a taxing district that contains all or part of an airport development zone; and

(2) combined on the tax statement sent to each taxpayer.

(c) Concurrently with the mailing or other delivery of the tax statement or any corrected tax statement to each taxpayer, as required by IC 6-1.1-22-8(a), each county treasurer shall for each tax statement also deliver to each taxpayer in an airport development zone who is entitled to the additional credit under subsection (a) a notice of additional credit. The actual dollar amount of the credit, the taxpayer's name and address, and the tax statement to which the credit applies shall be stated on the notice.

(d) This subsection applies to an airport development zone only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an airport development zone is entitled to an additional credit under subsection (a) for the taxes (as defined in IC 6-1.1-21-2) due in

installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 51. IC 12-13-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. For taxes first due and payable in each year after ~~1990~~, **2003**, each county shall impose a medical assistance property tax levy equal to the product of:

(1) the medical assistance property tax levy imposed for taxes first due and payable in the preceding year, **as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year**; multiplied by

(2) the statewide average assessed value growth quotient, using all the county assessed value growth quotients determined under IC 6-1.1-18.5-2 for the year in which the tax levy under this section will be first due and payable.

If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.

SECTION 52. IC 12-19-7-4, AS AMENDED BY P.L.90-2002, SECTION 344, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) For taxes first due and payable in ~~1995~~, each county must impose a county family and children property tax levy equal to the amount determined using the following formula:

STEP ONE: Determine the sum of the amounts that were paid by the county minus the amounts reimbursed by the state (including reimbursements made with federal money); as determined by the state board of accounts, in ~~1991~~, ~~1992~~, and ~~1993~~ for the following:

(A) Payments for administrative expenses of the county office of family and children in administering the provision of child services:

(B) Payments for the services described in section ~~1~~ of this chapter that were made on behalf of the children described in section ~~1~~ of this chapter and for which payment was made

from the county welfare fund.

(C) Payment for the facilities, supplies, and equipment needed for the provision of child services as operated by the county office of family and children.

(D) Payment of all other expenses incurred in providing child services that were paid by the county office of family and children.

STEP TWO: Subtract from the amount determined in STEP ONE the sum of the miscellaneous taxes that were allocated to:

(A) the county welfare administration fund and used to pay expenses for administration, facilities, supplies, and equipment for the provision of child services in 1991, 1992, and 1993; and

(B) the county welfare fund, the county general fund, or the county welfare loan fund (whichever of the funds applies) and used to pay the costs of providing child services in 1991, 1992, and 1993.

STEP THREE: Divide the amount determined in STEP TWO by three (3).

STEP FOUR: Calculate the STEP ONE amount and the STEP TWO amount for 1993 expenses only.

STEP FIVE: Adjust the amounts determined in STEP THREE and STEP FOUR by the amount determined by the department of local government finance under subsection (c).

STEP SIX: Determine whether the amount calculated in STEP THREE, as adjusted in STEP FIVE, or the amount calculated in STEP FOUR, as adjusted in STEP FIVE, is greater. Multiply the greater amount by the greater of:

(A) the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for property taxes first due and payable in 1995; or

(B) the statewide average assessed value growth quotient using the county assessed value growth quotients determined under IC 6-1.1-18.5-2 for property taxes first due and payable in 1995.

STEP SEVEN: Multiply the amount determined in STEP SIX by the county's assessed value growth quotient for property taxes first due and payable in 1995, as determined under IC 6-1.1-18.5-2.

~~(b)~~ (a) For taxes first due and payable in each year after ~~1995~~, **2003**, each county shall impose a county family and children property tax levy equal to the product of:

(1) the county family and children property tax levy imposed for taxes first due and payable in the preceding year, **as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year**; multiplied by

(2) the greater of:

(A) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2; or

(B) one (1).

When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent adjustments in the county's levy under this section. **If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.**

~~(c)~~ For taxes first due and payable in 1995 and in 1996, the department of local government finance shall adjust the levy for each county to reflect the county's actual child services expenses incurred in providing child services in 1991, 1992, and 1993. In making this adjustment, the department of local government finance may consider all relevant information, including the county's use of bond and loan proceeds to pay these expenses.

~~(d)~~ (b) The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy.

SECTION 53. IC 12-19-7.5-6, AS ADDED BY P.L.224-2003, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) For taxes first due and payable in 2004, each county must impose a county children's psychiatric residential

services property tax levy equal to the amount determined using the following formula:

STEP ONE: Determine the sum of the amounts that were paid by the county minus the amounts reimbursed by the state (including reimbursements made with federal money), as determined by the state board of accounts in 2000, 2001, and 2002 for payments to facilities licensed under 470 IAC 3-13 for services that were made on behalf of the children and for which payment was made from the county family and children fund, or five percent (5%) of the average family and children budget, as determined by the department of local government finance in 2000, 2001, and 2002, whichever is greater.

STEP TWO: Subtract from the amount determined in STEP ONE the sum of the miscellaneous taxes that were allocated to the county family and children fund and used to pay the costs for providing services in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002.

STEP THREE: Divide the amount determined in STEP TWO by three (3).

STEP FOUR: Calculate the STEP ONE amount and the STEP TWO amount for 2002 expenses only.

STEP FIVE: Adjust the amounts determined in STEP THREE and STEP FOUR by the amount determined by the department of local government finance under subsection (c).

STEP SIX: Determine whether the amount calculated in STEP THREE, as adjusted in STEP FIVE, or the amount calculated in STEP FOUR, as adjusted in STEP FIVE, is greater. Multiply the greater amount by the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for property taxes first due and payable in 2003.

STEP SEVEN: Multiply the amount determined in STEP SIX by the county's assessed value growth quotient for property taxes first due and payable in 2004, as determined under IC 6-1.1-18.5-2.

(b) For taxes first due and payable in each year after 2004, each county shall impose a county children's psychiatric residential treatment services property tax levy equal to the product of:

(1) the county children's psychiatric residential treatment services property tax levy imposed for taxes first due and payable in the

preceding year, **as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year;** multiplied by

(2) the greater of:

(A) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2; or

(B) one (1).

When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent adjustments in the county's levy under this section. **If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.**

(c) For taxes first due and payable in 2004, the department of local government finance shall adjust the levy for each county to reflect the county's actual expenses incurred in providing services to children in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002. In making this adjustment, the department of local government finance may consider all relevant information, including the county's use of bond and loan proceeds to pay these expenses.

(d) The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy.

SECTION 54. IC 12-29-2-2, AS AMENDED BY P.L.170-2002, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Subject to ~~subsection~~ **subsections (b), (c), and (d)**, a county shall fund the operation of community mental health centers in an amount not less than the amount that would be raised by an annual tax rate of one and thirty-three hundredths cents (\$.0133) on each one hundred dollars (\$100) of taxable property within the county, unless a lower tax rate will be adequate to fulfill the county's financial obligations under this chapter in any of the following

situations:

- (1) If the total population of the county is served by one (1) center.
- (2) If the total population of the county is served by more than one (1) center.
- (3) If the partial population of the county is served by one (1) center.
- (4) If the partial population of the county is served by more than one (1) center.

(b) This subsection applies only to a property tax that is imposed in a county containing a consolidated city. The tax rate permitted under subsection (a) for taxes first due and payable after ~~calendar year~~ 1995 is the tax rate permitted under subsection (a) as adjusted under this subsection. For each year in which **an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5** or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the **annual adjustment or** general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (**0.01%**)) in the assessed value (**before the adjustment, if any, under IC 6-1.1-4-4.5**) of the taxable property from the year preceding the year the **annual adjustment or** general reassessment takes effect to the year that the **annual adjustment or** general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (**0.01%**)) in the assessed value (**before the adjustment, if any, under IC 6-1.1-4-4.5**) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of:

(A) the STEP ONE tax rate; divided by

(B) one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which **an annual adjustment under IC 6-1.1-4-4.5** or a general reassessment of property will take effect.

(c) With respect to a county to which subsection (b) does not apply, the maximum tax rate permitted under subsection (a) for taxes first due and payable in calendar year 2004 and calendar year 2005 is the maximum tax rate that would have been determined under subsection (d) for taxes first due and payable in 2003 if subsection (d) had applied to the county for taxes first due and payable in 2003.

(d) This subsection applies only to a county to which subsection (b) does not apply. The tax rate permitted under subsection (a) for taxes first due and payable after calendar year 2005 is the tax rate permitted under subsection (c) as adjusted under this subsection. For each year in which an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5 or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that

immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined under STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed under STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of:

(A) the STEP ONE tax rate; divided by

(B) one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or a general reassessment of property will take effect.

SECTION 55. IC 12-29-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The maximum appropriation determined under section 3 or 4 of this chapter represents the county's absolute proportional share of each center's total operating budget.

(b) If the proportional share is less than the ~~four cent (\$0.04) requirement in amount of property taxes raised under the tax rate required under~~ section 2 of this chapter, the county shall appropriate only the maximum appropriation amount.

(c) If the proportional share is more than the ~~four cent (\$0.04) requirement in amount of property taxes raised under the tax rate required under~~ section 2 of this chapter, the county:

(1) shall satisfy the ~~four cent (\$0.04) equivalent~~ appropriation **appropriate that amount;** and

(2) may appropriate an **additional** amount ~~in excess of the four cent (\$0.04) equivalent~~ appropriation up to an amount added to

the four cent (\$0.04) equivalent appropriation that would equal a ten cent (\$0.10) equivalent appropriation: the amount of property taxes raised by a tax rate of three and one-third cents (\$0.03 1/3).

SECTION 56. IC 16-35-3-3, AS AMENDED BY P.L.90-2002, SECTION 401, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) For taxes first due and payable in 1992, each county must impose a children with special health care needs property tax levy equal to the amount determined using the following formula:

STEP ONE: Determine the sum of the amounts that were paid by the county minus the amounts reimbursed by the state (including reimbursements made with federal money); as determined by the state board of accounts, in 1988, 1989, and 1990 for the following:

- (A) Payments for administrative expenses of the county office of family and children in the administration of the children with special health care needs program.
- (B) Payment for the facilities, supplies, and equipment needed for the children with special health care needs program as operated by the county office of family and children.
- (C) Payment of all other expenses under the children with special health care needs program that were paid by the county office of family and children.

STEP TWO: Subtract from the amount determined in STEP ONE the sum of the miscellaneous taxes that were allocated to:

- (A) the county welfare administration fund and used to pay expenses for administration, facilities, supplies, and equipment for the children with special health care needs program in 1988, 1989, and 1990; and
- (B) the county welfare fund and used to pay all other costs of the children with special health care needs program in 1988, 1989, and 1990.

STEP THREE: Divide the amount determined in STEP TWO by three (3).

STEP FOUR: Calculate the STEP ONE amount and the STEP TWO amount for 1990 expenses only.

STEP FIVE: Adjust the amounts determined in STEP THREE and

STEP FOUR by the amount determined by the state board of tax commissioners under subsection (c):

STEP SIX: Determine whether the amount calculated in STEP THREE, as adjusted in STEP FIVE, or the amount calculated in STEP FOUR, as adjusted in STEP FIVE, is greater. Multiply the greater amount by the greater of:

(A) the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for property taxes first due and payable in 1992; or

(B) the statewide average assessed value growth quotient using the county assessed value growth quotients determined under IC 6-1.1-18.5-2 for property taxes first due and payable in 1992:

STEP SEVEN: Multiply the amount determined in STEP SIX by the county's assessed value growth quotient for property taxes first due and payable in 1992, as determined under IC 6-1.1-18.5-2:

(b) (a) For taxes first due and payable in each year after 1992; **2003**, each county shall impose a children with special health care needs property tax levy equal to the product of:

(1) the children with special health care needs property tax levy imposed for taxes first due and payable in the preceding year, **as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year;** multiplied by

(2) the greater of:

(A) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2; or

(B) one (1).

When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent adjustments in the county's levy under this section. **If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the**

levy in the following year shall be reduced by the amount of surplus money.

(c) For taxes first due and payable in 1992 and in 1993, the state board of tax commissioners shall adjust the levy for each county to reflect the county's actual welfare expenses for administration, facilities, supplies, equipment, and all other costs for the children with special health care needs program in 1988, 1989, and 1990. In making this adjustment, the state board of tax commissioners may consider all relevant information. This includes the county's use of bond and loan proceeds to pay these expenses.

(d) (b) The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy.

SECTION 57. IC 20-5.5-7-3, AS AMENDED BY P.L.276-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Not later than the date established by the department for determining average daily membership under IC 21-3-1.6-1.1(d), and after May 31, the organizer shall submit to the department the following information on a form prescribed by the department:

- (1) The number of students enrolled in the charter school.
- (2) The name and address of each student.
- (3) The name of the school corporation in which the student has legal settlement.
- (4) The name of the school corporation, if any, that the student attended during the immediately preceding school year.
- (5) The grade level in which the student will enroll in the charter school.

The department shall verify the accuracy of the information reported.

(b) This subsection applies after December 31 of the calendar year in which a charter school begins its initial operation. The department shall distribute to the organizer the amount determined under IC 21-3-1.7 for the charter school. The department shall make a distribution under this subsection at the same time and in the same manner as the department makes a distribution under IC 21-3-1.7.

(c) The department shall provide to the department of local government finance the following information:

- (1) For each county, the number of students who:

- (A) have legal settlement in the county; and
- (B) attend a charter school.
- (2) The school corporation in which each student described in subdivision (1) has legal settlement.
- (3) The charter school that a student described in subdivision (1) attends and the county in which the charter school is located.
- (4) The amount determined under ~~IC 6-1.1-19-1.5(g)~~ **IC 6-1.1-19-1.5(f)** STEP EIGHT for 2004 and IC 6-1.1-19-1.5(b) STEP SIX for 2005 for each school corporation described in subdivision (2).
- (5) The amount determined under STEP TWO of the following formula:

STEP ONE: Determine the product of:

- (A) the amount determined under IC 21-3-1.7-6.7(d) or IC 21-3-1.7-6.7(e) for a charter school described in subdivision (3); multiplied by
- (B) thirty-five hundredths (0.35).

STEP TWO: Determine the product of:

- (A) the STEP ONE amount; multiplied by
- (B) the current ADM of a charter school described in subdivision (3).

- (6) The amount determined under STEP THREE of the following formula:

STEP ONE: Determine the number of students described in subdivision (1) who:

- (A) attend the same charter school; and
- (B) have legal settlement in the same school corporation located in the county.

STEP TWO: Determine the subdivision (5) STEP ONE amount for a charter school described in STEP ONE (A).

STEP THREE: Determine the product of:

- (A) the STEP ONE amount; multiplied by
- (B) the STEP TWO amount.

SECTION 58. IC 21-1-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The common school fund and the permanent endowment fund which is, at any time, in the custody of the treasurer of state, and subject to the management and control of the state board of finance, except as hereinafter

provided, shall be invested ~~as follows:~~ **in:**

- (1) ~~in~~ bonds, notes, certificates and other valid obligations of the United States;
- (2) ~~in~~ bonds, notes, debentures and other securities issued by any federal instrumentality and fully guaranteed by the United States;
- (3) ~~in~~ bonds, notes, certificates and other valid obligations of any state of the United States or of any county, township, city, town or other political subdivision of the state of Indiana which are issued pursuant to law, the issuers of which, for five (5) years prior to the date of such investment, have promptly paid the principal and interest on their bonds and other legal obligations in lawful money of the United States; **or**
- (4) bonds, notes, or other securities issued by the Indiana bond bank and described in IC 5-13-10.5-11(3).**

When it shall occur in any county of this state not having elected to surrender custody of any part of the common and permanent endowment funds to the state, that there is an insufficient amount of said funds held in trust in such county and unloaned, when added to the amount of congressional fund then held in trust and unloaned, as shown by a report of the auditor and treasurer of the county, to make all loans for which the county auditor has applications, upon petition of the board of commissioners of any such county, the state board of finance may allocate to the county making application therefor such amount as the said state board of finance may deem necessary.

SECTION 59. IC 21-2-11.5-3, AS AMENDED BY P.L.192-2002(ss), SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Subject to subsection (b), each school corporation may levy for the calendar year a property tax for the school transportation fund sufficient to pay all operating costs attributable to transportation that:

- (1) are not paid from other revenues available to the fund as specified in section 4 of this chapter; and
- (2) are listed in section 2(a)(1) through 2(a)(7) of this chapter.

(b) For each year after ~~2002~~, **2003**, the levy for the fund may not exceed the levy for the previous year, **as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of**

temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year, multiplied by the assessed value growth quotient determined under STEP FOUR of the following formula:

STEP ONE: For each of the six (6) calendar years immediately preceding the year in which a budget is adopted under IC 6-1.1-17-5 or IC 6-1.1-17-5.6 for part or all of the ensuing calendar year, divide the Indiana nonfarm personal income for the calendar year by the Indiana nonfarm personal income for the calendar year immediately preceding that calendar year, rounding to the nearest one-thousandth (0.001).

STEP TWO: Determine the sum of the STEP ONE results.

STEP THREE: Divide the STEP TWO result by six (6), rounding to the nearest one-thousandth (0.001).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE quotient.

(B) One and six-hundredths (1.06).

If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.

(c) Each school corporation may levy for the calendar year a tax for the school bus replacement fund in accordance with the school bus acquisition plan adopted under section 3.1 of this chapter.

(d) The tax rate and levy for each fund shall be established as a part of the annual budget for the calendar year in accord with IC 6-1.1-17.

SECTION 60. IC 21-3-1.7-6.8, AS AMENDED BY P.L.276-2003, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.8. (a) This section does not apply to a charter school.

(b) This subsection does not apply after December 31, 2003. A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result determined under STEP THREE of the following formula:

STEP ONE: This STEP applies only if the amount determined in STEP FIVE of the formula in section 6.7(d) of this chapter minus the result determined in STEP ONE of the formula in section 6.7(d) of this chapter is greater than zero (0). Determine the result under clause (E) of the following formula:

- (A) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.
- (B) Divide the clause (A) result by ten thousand (10,000).
- (C) Determine the greater of the following:
 - (i) The clause (B) result.
 - (ii) Thirty-nine dollars (\$39) in 2002 and thirty-nine dollars and seventy-five cents (\$39.75) in 2003.
- (D) Determine the result determined under item (ii) of the following formula:
 - (i) Subtract the result determined in STEP ONE of the formula in section 6.7(d) of this chapter from the amount determined in STEP FIVE of the formula in section 6.7(d) of this chapter.
 - (ii) Divide the item (i) result by the school corporation's current ADM.
- (E) Divide the clause (D) result by the clause (C) result.
- (F) Divide the clause (E) result by one hundred (100).

STEP TWO: This STEP applies only if the amount determined in STEP FIVE of the formula in section 6.7(d) of this chapter is equal to STEP ONE of the formula in section 6.7(d) of this chapter and the result of clause (A) is greater than zero (0). Determine the result under clause (G) of the following formula:

- (A) Add the following:
 - (i) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.
 - (ii) The portion of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.
- (B) Divide the clause (A) result by the school corporation's current ADM.
- (C) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.
- (D) Divide the clause (C) result by ten thousand (10,000).
- (E) Determine the greater of the following:
 - (i) The clause (D) result.

(ii) Thirty-nine dollars (\$39) in 2002 and thirty-nine dollars and seventy-five cents (\$39.75) in 2003.

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP THREE: Determine the sum of:

(A) ninety-one and eight-tenths cents (\$0.918) in 2002; and

(B) ninety-five and eight-tenths cents (\$0.958) in 2003; and
if applicable, the STEP ONE or STEP TWO result.

(c) This subsection applies to calendar years beginning after December 31, 2004. A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount determined for the school corporation in STEP ONE of the formula in section 6.7(e) of this chapter.

STEP TWO: This STEP applies only if the amount determined in STEP EIGHT of the formula in section 6.7(e) of this chapter minus the STEP ONE result is greater than zero (0). Determine the result under clause (E) of the following formula:

(A) Divide the school corporation's assessed valuation by the school corporation's current ADM.

(B) Divide the clause (A) result by ten thousand (10,000).

(C) Determine the greater of the following:

(i) The clause (B) result.

(ii) Forty-three dollars and sixty-five cents (\$43.65).

(D) Determine the result determined under item (ii) of the following formula:

(i) Subtract the STEP ONE result from the amount determined in STEP EIGHT of the formula in section 6.7(e) of this chapter.

(ii) Divide the item (i) result by the school corporation's current ADM.

(E) Divide the clause (D) result by the clause (C) result.

(F) Divide the clause (E) result by one hundred (100).

STEP THREE: This STEP applies only if the amount determined in STEP EIGHT of the formula in section 6.7(e) of this chapter is equal to the STEP ONE result and the result of clause (A) is greater than zero (0). Determine the result under clause (G) of the

following formula:

(A) Add the following:

(i) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(ii) The part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

(B) Divide the clause (A) result by the school corporation's current ADM.

(C) Divide the school corporation's assessed valuation by the school corporation's current ADM.

(D) Divide the clause (C) result by ten thousand (10,000).

(E) Determine the greater of the following:

(i) The clause (D) result.

(ii) Forty-three dollars and sixty-five cents (\$43.65).

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP FOUR: Determine the sum of sixty-three and seven-tenths cents (\$0.637) and, if applicable, the STEP TWO or STEP THREE result.

~~(c)~~ **(d)** For the calendar year beginning January 1, 2004, and ending December 31, 2004, a school corporation's general fund ad valorem property tax levy is determined under ~~IC 6-1.1-19-1.5(g)~~. **IC 6-1.1-19-1.5(f).**

SECTION 61. IC 36-2-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A county assessor shall be elected under IC 3-10-2-13 by the voters of the county.

(b) To be eligible to serve as an assessor, a person must meet the qualifications prescribed by IC 3-8-1-23 **and IC 6-1.1-35-1.1.**

(c) A county assessor must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the county **or fails to comply with IC 6-1.1-35-1.1.**

(d) The term of office of a county assessor is four (4) years, beginning January 1 after election and continuing until a successor is

elected and qualified.

SECTION 62. IC 36-6-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A township trustee shall be elected under IC 3-10-2-13 by the voters of each township. The trustee is the township executive.

(b) The township trustee must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The trustee forfeits office if the trustee:

(1) ceases to be a resident of the township; **or**

(2) **serves as township assessor under IC 36-6-5-2 and fails to comply with IC 6-1.1-35-1.1.**

(c) The term of office of a township trustee is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 63. IC 36-6-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) A township assessor shall be elected under IC 3-10-2-13 by the voters of each township having:

(1) a population of more than eight thousand (8,000); or

(2) an elected township assessor or the authority to elect a township assessor before January 1, 1979.

(b) A township assessor shall be elected under IC 3-10-2-14 in each township having a population of more than five thousand (5,000) but not more than eight thousand (8,000), if the legislative body of the township:

(1) by resolution, declares that the office of township assessor is necessary; and

(2) the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2.

(c) The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the township **or fails to comply with the requirements of IC 6-1.1-35-1.1.**

(d) The term of office of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township

assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.

SECTION 64. IC 36-7-14-39.5, AS AMENDED BY P.L.192-2002(ss), SECTION 178, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 39.5. (a) As used in this section, "allocation area" has the meaning set forth in section 39 of this chapter.

(b) As used in this section, "taxing district" has the meaning set forth in IC 6-1.1-1-20.

(c) Subject to subsection (e) **and except as provided in subsection (h)**, each taxpayer in an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in May and November of that year. **Except as provided in subsection (h)**, one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to an allocation fund under section 39 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the redevelopment district and paid into an allocation fund under section

39(b)(2) of this chapter.

(d) If the additional credit under subsection (c) is not reduced under subsection (e) or (f), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an allocation area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be combined on the tax statements sent to each taxpayer.

(e) Upon the recommendation of the redevelopment commission, the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) may, by resolution, provide that the additional credit described in subsection (c):

- (1) does not apply in a specified allocation area; or
- (2) is to be reduced by a uniform percentage for all taxpayers in a specified allocation area.

(f) Whenever the municipal legislative body or county executive determines that granting the full additional credit under subsection (c) would adversely affect the interests of the holders of bonds or other contractual obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the municipal legislative body or county executive must adopt a resolution under subsection (e) to deny the additional credit or reduce it to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. A resolution adopted under subsection (e) denies or reduces the additional credit for property taxes first due and payable in the allocation area in any year following the year in which the resolution is adopted.

(g) A resolution adopted under subsection (e) remains in effect until it is rescinded by the body that originally adopted it. However, a resolution may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If a

resolution is rescinded and no other resolution is adopted, the additional credit described in subsection (c) applies to property taxes first due and payable in the allocation area in each year following the year in which the resolution is rescinded.

(h) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (c) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 65. IC 36-7-15.1-26.5, AS AMENDED BY P.L.192-2002(ss), SECTION 181, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.5. (a) As used in this section, "adverse determination" means a determination by the fiscal officer of the consolidated city that the granting of credits described in subsection (g) or (h) would impair any contract with or otherwise adversely affect the owners of outstanding bonds payable from the allocation area special fund.

(b) As used in this section, "allocation area" has the meaning set forth in section 26 of this chapter.

(c) As used in this section, "special fund" refers to the special fund into which property taxes are paid under section 26 of this chapter.

(d) As used in this section, "taxing district" has the meaning set forth in IC 6-1.1-1-20.

(e) Except as provided in subsections (g), (h), ~~and (i), and (j)~~, each taxpayer in an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that, under IC 6-1.1-22-9, are due and payable in May and November of that year. **Except as provided in subsection (j)**, one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's † eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to an allocation fund under section 26 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the redevelopment district and paid into the special fund.

(f) The credit for property tax replacement under IC 6-1.1-21-5 and the additional credits under subsections (e), (g), (h), and (i), unless the credits under subsections (g) and (h) are partial credits, shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an allocation area. Except as provided in subsections (h) and (i), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credits under subsections (e), (g), (h), and (i) shall be combined on the tax statements sent to each taxpayer.

(g) This subsection applies to an allocation area if allocated taxes from that area were pledged to bonds, leases, or other obligations of the commission before May 8, 1989. A credit calculated using the method provided in subsection (e) may be granted under this subsection. The credit provided under this subsection is first applicable for the allocation area for property taxes first due and payable in 1992. The following apply to the determination of the credit provided under this subsection:

(1) Before June 15 of each year, the fiscal officer of the consolidated city shall determine and certify the following:

(A) All amounts due in the following year to the owners of

outstanding bonds payable from the allocation area special fund.

(B) All amounts that are:

- (i) required under contracts with bond holders; and
- (ii) payable from the allocation area special fund to fund accounts and reserves.

(C) An estimate of the amount of personal property taxes available to be paid into the allocation area special fund under section 26.9(c) of this chapter.

(D) An estimate of the aggregate amount of credits to be granted if full credits are granted.

(2) Before June 15 of each year, the fiscal officer of the consolidated city shall determine if the granting of the full amount of credits in the following year would impair any contract with or otherwise adversely affect the owners of outstanding bonds payable from the allocation area special fund.

(3) If the fiscal officer of the consolidated city determines under subdivision (2) that there would not be an impairment or adverse effect:

(A) the fiscal officer of the consolidated city shall certify the determination; and

(B) the full credits shall be applied in the following year, subject to the determinations and certifications made under section 26.7(b) of this chapter.

(4) If the fiscal officer of the consolidated city makes an adverse determination under subdivision (2), the fiscal officer of the consolidated city shall determine whether there is an amount of partial credits that, if granted in the following year, would not result in the impairment or adverse effect. If the fiscal officer determines that there is an amount of partial credits that would not result in the impairment or adverse effect, the fiscal officer shall do the following:

(A) Determine the amount of the partial credits.

(B) Certify that determination.

(5) If the fiscal officer of the consolidated city certifies under subdivision (4) that partial credits may be paid, the partial credits shall be applied pro rata among all affected taxpayers in the following year.

(6) An affected taxpayer may appeal any of the following to the circuit or superior court of the county in which the allocation area is located:

(A) A determination by the fiscal officer of the consolidated city that:

(i) credits may not be paid in the following year; or

(ii) only partial credits may be paid in the following year.

(B) A failure by the fiscal officer of the consolidated city to make a determination by June 15 of whether full or partial credits are payable under this subsection.

(7) An appeal of a determination must be filed not later than thirty (30) days after the publication of the determination.

(8) An appeal of a failure by the fiscal officer of the consolidated city to make a determination of whether the credits are payable under this subsection must be filed by July 15 of the year in which the determination should have been made.

(9) All appeals under subdivision (6) shall be decided by the court within sixty (60) days.

(h) This subsection applies to an allocation area if allocated taxes from that area were pledged to bonds, leases, or other obligations of the commission before May 8, 1989. A credit calculated using the method in subsection (e) and in subdivision (2) may be granted under this subsection. The following apply to the credit granted under this subsection:

(1) The credit is applicable to property taxes first due and payable in 1991.

(2) For purposes of this subsection, the amount of a credit for 1990 taxes payable in 1991 with respect to an affected taxpayer is equal to:

(A) the amount of the quotient determined under STEP TWO of subsection (e); multiplied by

(B) the total amount of the property taxes payable by the taxpayer that were allocated in 1991 to the allocation area special fund under section 26 of this chapter.

(3) Before June 15, 1991, the fiscal officer of the consolidated city shall determine and certify an estimate of the aggregate amount of credits for 1990 taxes payable in 1991 if the full credits are granted.

(4) The fiscal officer of the consolidated city shall determine whether the granting of the full amounts of the credits for 1990 taxes payable in 1991 against 1991 taxes payable in 1992 and the granting of credits under subsection (g) would impair any contract with or otherwise adversely affect the owners of outstanding bonds payable from the allocation area special fund for an allocation area described in subsection (g).

(5) If the fiscal officer of the consolidated city determines that there would not be an impairment or adverse effect under subdivision (4):

(A) the fiscal officer shall certify that determination; and

(B) the full credits shall be applied against 1991 taxes payable in 1992 or the amount of the credits shall be paid to the taxpayers as provided in subdivision (12), subject to the determinations and certifications made under section 26.7(b) of this chapter.

(6) If the fiscal officer of the consolidated city makes an adverse determination under subdivision (4), the fiscal officer shall determine whether there is an amount of partial credits for 1990 taxes payable in 1991 that, if granted against 1991 taxes payable in 1992 in addition to granting of the credits under subsection (g), would not result in the impairment or adverse effect.

(7) If the fiscal officer of the consolidated city determines under subdivision (6) that there is an amount of partial credits that would not result in the impairment or adverse effect, the fiscal officer shall determine the amount of partial credits and certify that determination.

(8) If the fiscal officer of the consolidated city certifies under subdivision (7) that partial credits may be paid, the partial credits shall be applied pro rata among all affected taxpayers against 1991 taxes payable in 1992.

(9) An affected taxpayer may appeal any of the following to the circuit or superior court of the county in which the allocation area is located:

(A) A determination by the fiscal officer of the consolidated city that:

(i) credits may not be paid for 1990 taxes payable in 1991;

or

(ii) only partial credits may be paid for 1990 taxes payable in 1991.

(B) A failure by the fiscal officer of the consolidated city to make a determination by June 15, 1991, of whether credits are payable under this subsection.

(10) An appeal of a determination must be filed not later than thirty (30) days after the publication of the determination. Any such appeal shall be decided by the court within sixty (60) days.

(11) An appeal of a failure by the fiscal officer of the consolidated city to make a determination of whether credits are payable under this subsection must be filed by July 15, 1991. Any such appeal shall be decided by the court within sixty (60) days.

(12) If 1991 taxes payable in 1992 with respect to a parcel are billed to the same taxpayer to which 1990 taxes payable in 1991 were billed, the county treasurer shall apply to the tax bill for 1991 taxes payable in 1992 both the credit provided under subsection (g) and the credit provided under this subsection, along with any credit determined to be applicable to the tax bill under subsection (i). In the alternative, at the election of the county auditor, the county may pay to the taxpayer the amount of the credit by May 10, 1992, and the amount shall be charged to the taxing units in which the allocation area is located in the proportion of the taxing units' respective tax rates for 1990 taxes payable in 1991.

(13) If 1991 taxes payable in 1992 with respect to a parcel are billed to a taxpayer other than the taxpayer to which 1990 taxes payable in 1991 were billed, the county treasurer shall do the following:

(A) Apply only the credits under subsections (g) and (i) to the tax bill for 1991 taxes payable in 1992.

(B) Give notice by June 30, 1991, by publication two (2) times in three (3) newspapers in the county with the largest circulation of the availability of a refund of the credit under this subsection.

A taxpayer entitled to a credit must file an application for refund of the credit with the county auditor not later than November 30, 1991.

(14) A taxpayer who files an application by November 30, 1991,

is entitled to payment from the county treasurer in an amount that is in the same proportion to the credit provided under this subsection with respect to a parcel as the amount of 1990 taxes payable in 1991 paid by the taxpayer with respect to the parcel bears to the 1990 taxes payable in 1991 with respect to the parcel. This amount shall be paid to the taxpayer by May 10, 1992, and shall be charged to the taxing units in which the allocation area is located in the proportion of the taxing units' respective tax rates for 1990 taxes payable in 1991.

(i) This subsection applies to an allocation area if allocated taxes from that area were pledged to bonds, leases, or other obligations of the commission before May 8, 1989. The following apply to the credit granted under this subsection:

(1) A prior year credit is applicable to property taxes first due and payable in each year from 1987 through 1990 (the "prior years").

(2) The credit for each prior year is equal to:

(A) the amount of the quotient determined under STEP TWO of subsection (e) for the prior year; multiplied by

(B) the total amount of the property taxes paid by the taxpayer that were allocated in the prior year to the allocation area special fund under section 26 of this chapter.

(3) Before January 31, 1992, the county auditor shall determine the amount of credits under subdivision (2) with respect to each parcel in the allocation area for all prior years with respect to which:

(A) taxes were billed to the same taxpayer for taxes payable in each year from 1987 through 1991; or

(B) an application was filed by November 30, 1991, under subdivision (8) for refund of the credits for prior years.

A report of the determination by parcel shall be sent by the county auditor to the department of local government finance and the budget agency within five (5) days of such determination.

(4) Before January 31, 1992, the county auditor shall determine the quotient of the amounts determined under subdivision (3) with respect to each parcel divided by six (6).

(5) Before January 31, 1992, the county auditor shall determine the quotient of the aggregate amounts determined under subdivision (3) with respect to all parcels divided by twelve (12).

(6) Except as provided in subdivisions (7) and (9), in each year in which credits from prior years remain unpaid, credits for the prior years in the amounts determined under subdivision (4) shall be applied as provided in this subsection.

(7) If taxes payable in the current year with respect to a parcel are billed to the same taxpayer to which taxes payable in all of the prior years were billed and if the amount determined under subdivision (3) with respect to the parcel is at least five hundred dollars (\$500), the county treasurer shall apply the credits provided for the current year under subsections (g) and (h) and the credit in the amount determined under subdivision (4) to the tax bill for taxes payable in the current year. However, if the amount determined under subdivision (3) with respect to the parcel is less than five hundred dollars (\$500) (referred to in this subdivision as "small claims"), the county may, at the election of the county auditor, either apply a credit in the amount determined under subdivision (3) or (4) to the tax bill for taxes payable in the current year or pay either amount to the taxpayer. If title to a parcel transfers in a year in which a credit under this subsection is applied to the tax bill, the transferor may file an application with the county auditor within thirty (30) days of the date of the transfer of title to the parcel for payments to the transferor at the same times and in the same amounts that would have been allowed as credits to the transferor under this subsection if there had not been a transfer. If a determination is made by the county auditor to refund or credit small claims in the amounts determined under subdivision (3) in 1992, the county auditor may make appropriate adjustments to the credits applied with respect to other parcels so that the total refunds and credits in any year will not exceed the payments made from the state property tax replacement fund to the prior year credit fund referred to in subdivision (11) in that year.

(8) If taxes payable in the current year with respect to a parcel are billed to a taxpayer that is not a taxpayer to which taxes payable in all of the prior years were billed, the county treasurer shall do the following:

(A) Apply only the credits under subsections (g) and (h) to the tax bill for taxes payable in the current year.

(B) Give notice by June 30, 1991, by publication two (2) times in three (3) newspapers in the county with the largest circulation of the availability of a refund of the credit.

A taxpayer entitled to the credit must file an application for refund of the credit with the county auditor not later than November 30, 1991. A refund shall be paid to an eligible applicant by May 10, 1992.

(9) A taxpayer who filed an application by November 30, 1991, is entitled to payment from the county treasurer under subdivision (8) in an amount that is in the same proportion to the credit determined under subdivision (3) with respect to a parcel as the amount of taxes payable in the prior years paid by the taxpayer with respect to the parcel bears to the taxes payable in the prior years with respect to the parcel.

(10) In each year on May 1 and November 1, the state shall pay to the county treasurer from the state property tax replacement fund the amount determined under subdivision (5).

(11) All payments received from the state under subdivision (10) shall be deposited into a special fund to be known as the prior year credit fund. The prior year credit fund shall be used to make:

(A) payments under subdivisions (7) and (9); and

(B) deposits into the special fund for the application of prior year credits.

(12) All amounts paid into the special fund for the allocation area under subdivision (11) are subject to any pledge of allocated property tax proceeds made by the redevelopment district under section 26(d) of this chapter, including but not limited to any pledge made to owners of outstanding bonds of the redevelopment district of allocated taxes from that area.

(13) By January 15, 1993, and by January 15 of each year thereafter, the county auditor shall send to the department of local government finance and the budget agency a report of the receipts, earnings, and disbursements of the prior year credit fund for the prior calendar year. If in the final year that credits under subsection (i) are allowed any balance remains in the prior year credit fund after the payment of all credits payable under this subsection, such balance shall be repaid to the treasurer of state for deposit in the property tax replacement fund.

(14) In each year, the county shall limit the total of all refunds and credits provided for in this subsection to the total amount paid in that year from the property tax replacement fund into the prior year credit fund and any balance remaining from the preceding year in the prior year credit fund.

(j) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (e) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 66. IC 36-7-15.1-35, AS AMENDED BY P.L.192-2002(ss), SECTION 182, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. (a) Notwithstanding section 26(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 32 of this chapter, "base assessed value" means the net assessed value of all of the land as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 26(g) of this chapter. However, "base assessed value" does not include the value of real property improvements to the land.

(b) The special fund established under section 26(b) of this chapter for the allocation area for a program adopted under section 32 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

- (1) The construction, rehabilitation, or repair of residential units within the allocation area.
- (2) The construction, reconstruction, or repair of infrastructure (such as streets, sidewalks, and sewers) within or serving the allocation area.
- (3) The acquisition of real property and interests in real property

within the allocation area.

(4) The demolition of real property within the allocation area.

(5) To provide financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(6) To provide financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).

(7) To provide each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, this credit may be provided by the commission only if the city-county legislative body establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 32 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4(a)(1) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) **Except as provided in subsection (g)**, the commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c), by

applying one-half (1/2) of the credit to each installment of taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable ~~on~~ **in** May † and November † of a year. **Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2).** The commission must provide for the credit annually by a resolution and must find in the resolution the following:

- (1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.
- (2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.
- (3) If bonds of a lessor under section 17.1 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 26(b) of this chapter, the special fund established under section 26(b) of this chapter for the allocation area for a program adopted under section 32 of this chapter may only be used to do one (1) or more of the following:

- (1) Accomplish one (1) or more of the actions set forth in section 26(b)(2)(A) through 26(b)(2)(H) of this chapter.
- (2) Reimburse the consolidated city for expenditures made by the city in order to accomplish the housing program in that allocation area.

The special fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 26(b) of this chapter, the commission shall, relative to the special fund established under section 26(b) of this chapter for an allocation area for a program adopted under section 32 of this chapter, do the following before July 15 of each year:

- (1) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary:

- (A) to make, when due, principal and interest payments on bonds described in section 26(b)(2) of this chapter;
- (B) to pay the amount necessary for other purposes described in section 26(b)(2) of this chapter; and
- (C) to reimburse the consolidated city for anticipated expenditures described in subsection (e)(2).

(2) Notify the county auditor of the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 26(b)(1) of this chapter.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 67. IC 36-7-15.1-56, AS AMENDED BY P.L.192-2002(ss), SECTION 184, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 56. (a) As used in this section, "allocation area" has the meaning set forth in section 53 of this chapter.

(b) As used in this section, "taxing district" has the meaning set forth in IC 6-1.1-1-20.

(c) Subject to subsection (e) **and except as provided in subsection (h)**, each taxpayer in an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in May and November of that year. **Except as provided in subsection (h)**, one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to an allocation fund under section 53 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the development district and paid into an allocation fund under section 53(b)(2) of this chapter.

(d) If the additional credit under subsection (c) is not reduced under subsection (e) or (f), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an allocation area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be combined on the tax statements sent to each taxpayer.

(e) Upon the recommendation of the commission, the excluded city legislative body may, by resolution, provide that the additional credit described in subsection (c):

(1) does not apply in a specified allocation area; or

(2) is to be reduced by a uniform percentage for all taxpayers in a specified allocation area.

(f) Whenever the excluded city legislative body determines that granting the full additional credit under subsection (c) would adversely affect the interests of the holders of bonds or other contractual obligations that are payable from allocated tax proceeds in that

allocation area in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the excluded city legislative body must adopt a resolution under subsection (e) to deny the additional credit or reduce it to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. A resolution adopted under subsection (e) denies or reduces the additional credit for property taxes first due and payable in the allocation area in any year following the year in which the resolution is adopted.

(g) A resolution adopted under subsection (e) remains in effect until it is rescinded by the body that originally adopted it. However, a resolution may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If a resolution is rescinded and no other resolution is adopted, the additional credit described in subsection (c) applies to property taxes first due and payable in the allocation area in each year following the year in which the resolution is rescinded.

(h) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (c) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 68. [EFFECTIVE UPON PASSAGE] (a) For purposes of this SECTION, "benefit" means:

- (1) a credit under IC 6-1.1-20.9; or
- (2) a deduction under any of the following:

IC 6-1.1-12-1

IC 6-1.1-12-9, as amended by this act

IC 6-1.1-12-11

IC 6-1.1-12-13

IC 6-1.1-12-14

IC 6-1.1-12-16

IC 6-1.1-12-17.4.

(b) This SECTION applies to an individual who, with respect to a real property parcel:

(1) did not receive a benefit for property taxes first due and payable in 2003;

(2) met the eligibility criteria for the benefit under a section referred to in subsection (a) for property taxes first due and payable in 2004; and

(3) did not file a timely application as required by law for the benefit for property taxes first due and payable in 2004.

(c) Except as provided in subsection (d), an individual may:

(1) claim a benefit referred to in subsection (a)(1) by meeting the filing requirements of IC 6-1.1-20.9; and

(2) claim a benefit referred to in subsection (a)(2) by meeting the filing requirements of IC 6-1.1-12.

(d) The filing requirements for a benefit under this SECTION must be met before December 15, 2003.

(e) The department of local government finance shall:

(1) prescribe forms; or

(2) issue instructions for the use of existing forms;

for filing a claim under subsection (c).

(f) The county auditor shall determine the individual's eligibility for a benefit under this SECTION. If the county auditor determines that an individual is eligible for a benefit under this SECTION for a parcel, the county auditor shall:

(1) apply the benefit with respect to taxes first due and payable in 2004 for the parcel; and

(2) before January 1, 2004:

(A) send to the department of local government finance a revised certification under IC 6-1.1-17-1(a) for the county that reflects:

(i) the benefits applied under this SECTION; and

(ii) deductions under IC 6-1.1-12-37 applied as described in subsection (j); and

(B) certify to the department of local government finance

the amount of homestead credits allowed in the county under this SECTION for property taxes first due and payable in 2004.

(g) The department of local government finance shall use the revised certifications received under subsection (f)(2)(A) in the department's determination of tax rates under IC 6-1.1-17-16 for taxes first due and payable in 2004. Notwithstanding IC 6-1.1-17-16(d), the department of local government finance may increase a political subdivision's tax rate to an amount that exceeds the amount originally fixed by the political subdivision based on the revised certification received under subsection (f)(2)(A).

(h) Before March 15, 2004, the auditor of state shall certify the amount of homestead credits referred to in subsection (f)(2)(B) to the department of state revenue. For property taxes first due and payable in 2004, the department of state revenue shall allocate under IC 6-1.1-21-4 from the property tax replacement fund an additional amount equal to the total amount of homestead credits allowed under this SECTION for property taxes first due and payable in 2004. The department of state revenue shall distribute the amount allocated under this subsection in the same manner that other property tax replacement fund distributions are made in 2004.

(i) A statement filed under this SECTION to obtain a benefit for property taxes first due and payable in 2004 applies for that year and any succeeding year for which the benefit is allowed.

(j) Each year a person who is entitled under this SECTION to receive the homestead credit under IC 6-1.1-20.9 for property taxes first due and payable in 2004 is entitled for that year to the deduction under IC 6-1.1-12-37 from the assessed value of the real property that qualifies for the homestead credit.

SECTION 69. [EFFECTIVE UPON PASSAGE] Any action taken by the department of local government finance before January 1, 2004, to:

- (1) allow a taxpayer to file a petition under IC 6-1.1-15-1(b)(1) more than forty-five (45) days after notice of a change in the assessment is given to the taxpayer;
- (2) allow the payment of property taxes in installments other than the installments prescribed in IC 6-1.1-22-9(a); or
- (3) waive all or part of a penalty under IC 6-1.1-37-10 of this

chapter;
is legalized and validated.

SECTION 70. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of local government finance.

(b) The department shall study the feasibility of creating uniform and common computer software programs for property tax assessment purposes, including computer software programs that allow the sharing and transfer of assessment data in a uniform format by the state and all counties.

(c) The department shall report the results of the study required by subsection (b) to the commission on state tax and financing policy before September 1, 2004.

(d) Upon approval of the governor, the budget agency may authorize the payment of expenses incurred by the department in conducting the study required by subsection (b) from amounts allotted from the departmental and institutional emergency contingency fund.

(e) This SECTION expires January 1, 2005.

SECTION 71. [EFFECTIVE UPON PASSAGE] IC 6-1.1-15-11, as amended by this act, applies only to refunds that result from assessment reductions for which notice is given to the taxpayer after December 31, 2003.

SECTION 72. [EFFECTIVE JULY 1, 2004] IC 6-1.1-17-20, as amended by this act, applies only to property taxes first due and payable after December 31, 2004.

SECTION 73. [EFFECTIVE UPON PASSAGE] IC 6-1.1-18.5-1, as amended by this act, applies to property taxes first due and payable after December 31, 2003.

SECTION 74. [EFFECTIVE UPON PASSAGE] IC 6-1.1-18.5-13 and IC 6-1.1-21-2, both as amended by this act, apply only to property taxes first due and payable after December 31, 2003.

SECTION 75. [EFFECTIVE JULY 1, 2004] IC 6-1.1-18.5-17 and IC 6-1.1-19-1.7, both as amended by this act, apply only to property taxes first due and payable after December 31, 2004.

SECTION 76. [EFFECTIVE UPON PASSAGE] IC 6-1.1-18.5-16, IC 6-1.1-19-1.5, IC 6-1.1-19-4.7, IC 20-5.5-7-3, and IC 21-3-1.7-6.8, all as added by this act, apply to property taxes first due and

payable after December 31, 2003.

SECTION 77. [EFFECTIVE JULY 1, 2004] An elected county assessor, township assessor, or township trustee-assessor is required to comply with IC 6-1.1-35-1.1, as amended by this act, only if the assessor or trustee-assessor is elected to a new term of office that begins after June 30, 2004.

SECTION 78. [EFFECTIVE MAY 10, 2002 (RETROACTIVE)] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) This SECTION applies only to the appeal of an assessment of real property.

(c) Notwithstanding IC 6-1.1-15-1(b)(2), IC 6-1.1-15-1(c), and IC 6-1.1-15-1(d), in order to appeal an assessment of real property and have a change in the assessment effective for the assessment date in 2002, 2003, or 2004, the taxpayer must, in the manner provided by IC 6-1.1-15-1, as amended by this act, file a written request for a preliminary conference with the township assessor not later than forty-five (45) days after:

- (1) a notice of a change of assessment for the assessment date is given to the taxpayer; or
- (2) the taxpayer receives a tax statement for the property taxes that are based on the assessment for the assessment date;

whichever occurs first.

(d) An appeal of a taxpayer under subsection (c) must comply with all other requirements applicable to an appeal under IC 6-1.1-15-1, except that the provisions of IC 6-1.1-15-1(b)(2), IC 6-1.1-15-1(c), and IC 6-1.1-15-1(d) that prohibit appeals of:

- (1) an assessment for an assessment date in 2002 that is filed after May 10, 2002, apply to property taxes imposed for that assessment date;
- (2) an assessment for an assessment date in 2003 that is filed after May 10, 2003, apply to property taxes imposed for that assessment date; or
- (3) an assessment for an assessment date in 2004 that is filed after May 10, 2004, apply to property taxes imposed for that assessment date.

SECTION 79. [EFFECTIVE UPON PASSAGE] (a) For property taxes first due and payable in 2004 with respect to a homestead (as defined in IC 6-1.1-20.9-1):

(1) a county treasurer who mails a property tax statement under IC 6-1.1-22-8(a)(1) shall include in or mail with the statement; and

(2) a county treasurer who transmits a statement to a person's mortgagee under IC 6-1.1-22-8(a)(2) shall, at the time the county treasurer mails statements under IC 6-1.1-22-8(a)(1), mail or cause to be mailed to the last known address of the person;

a statement in the form determined by the department of local government finance under subsection (b). A statement mailed to a person described in subdivision (2) need not be transmitted to the person's mortgagee.

(b) Not later than ten (10) days after the department of local government finance certifies to a county under IC 6-1.1-17-16 its action on the county's tax rate and tax levy for property taxes first due and payable in 2004, the department shall determine and provide to the county treasurer the wording of a statement concerning property taxes on homesteads in the county, which must be in the following or a substantially similar form, as determined by the department:

"Your assessing officials completed a general reassessment of all real property in the county first effective for property taxes payable in 2003. The reassessment was necessary to comply with Indiana law. The Indiana General Assembly has increased the property tax replacement credit and made other changes to the property tax system to substantially reduce the effects that this reassessment may have on your property tax liability. If the Indiana General Assembly had not taken these actions, the average 2004 property tax bill for homeowners in _____ County would be approximately _____ percent (___%) greater."

The county treasurer is responsible for the preparation and mailing of the statement in the manner provided by subsection (a).

(c) This SECTION expires July 1, 2005.

SECTION 80. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) The department of local government finance may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement the following:

- (1) IC 6-1.1-4-39.
- (2) IC 6-1.1-31-3.
- (3) IC 6-1.1-31-6.
- (4) IC 6-1.1-31-7.

(c) A temporary rule adopted under this SECTION expires on the earlier of the following:

- (1) The date that another temporary rule is adopted under this SECTION or a permanent rule is adopted under IC 4-22-2 to supersede the temporary rule.
- (2) December 31, 2005.

SECTION 81. [EFFECTIVE UPON PASSAGE] (a) The department of local government finance may not prescribe a form for taxpayers to request a preliminary conference under IC 6-1.1-15-1, as amended by this act. Any written document containing the information specified in IC 6-1.1-15-1(b), as amended by this act, is sufficient to initiate a preliminary conference under this act.

(b) The department of local government finance may modify the form known as the "Form 130" to enable township assessors and taxpayers to report the results of preliminary conferences held under IC 6-1.1-15-1, as amended by this act, to the appropriate county property tax assessment board of appeals.

(c) The department of local government finance may not prescribe a form for taxpayers to request a hearing before the county property tax assessment board of appeals under IC 6-1.1-15-1(j), as added by this act. Any written document requesting the hearing is sufficient.

(d) The following provisions apply to a taxpayer who, before the effective date of this act, filed a petition for review of an assessment determination by a township assessor in the manner provided by IC 6-1.1-15-1, as in effect before the effective date of this act:

- (1) The taxpayer is not required to file a request for a preliminary conference with the township assessor.
- (2) The provisions of IC 6-1.1-15-1, as in effect before the effective date of this act, with respect to a preliminary conference with the township assessor and a hearing before the county property tax assessment board of appeals apply to the taxpayer's petition.

SECTION 82. [EFFECTIVE UPON PASSAGE] (a) The

commission on state tax and financing policy established under IC 2-5-3 shall study:

- (1) the elimination of property taxes as a source of funding for local government services other than:
 - (A) police and fire protection; and
 - (B) public health purposes; and
- (2) alternative sources of revenue that might be used to replace the property taxes described in subdivision (1).

The commission shall complete its study not later than December 31, 2005.

(b) This SECTION expires July 1, 2006.

SECTION 83. [EFFECTIVE JANUARY 1, 2004] There is appropriated to the department of local government finance an amount sufficient from the assessment training fund established by IC 6-1.1-5.5-4.7, as amended by this act, to carry out the purposes set forth in IC 6-1.1-5.5-4.7, as amended by this act, beginning January 1, 2004, and ending June 30, 2005.

SECTION 84. [EFFECTIVE MARCH 1, 2004] (a) The definitions set forth in IC 6-1.1-20 apply throughout this SECTION.

(b) The following provisions apply to a controlled project for which a notice of preliminary determination to issue bonds or enter into a lease was published before March 1, 2004:

- (1) The amendments made by IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2, and by IC 6-1.1-20-10, as added by this act, do not apply to:
 - (A) a petition requesting the application of the petition and remonstrance process to the controlled project; or
 - (B) a petition or remonstrance concerning the controlled project.
- (2) IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2, both as in effect before March 1, 2004, apply to:
 - (A) a petition requesting the application of the petition and remonstrance process to the controlled project; or
 - (B) a petition or remonstrance concerning the controlled project.

SECTION 85. [EFFECTIVE UPON PASSAGE] IC 6-3-1-3.5, as amended by this act, applies only to taxable years after December 31, 2003.

SECTION 86. An emergency is declared for this act.

P.L.2-2004

[S.86. Approved March 9, 2004.]

AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-10-1-24, AS AMENDED BY P.L.209-2003, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) A voter who desires to vote must give the voter's name and political party to the poll clerks of the precinct on primary election day. The poll clerks shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) **Except as provided in subsection (d),** the voter's current residence address.

(3) The name of the voter's party.

(b) The poll clerks shall:

(1) ask the voter to provide or update the voter's voter identification number;

(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

(c) If the voter is unable to sign the voter's name, the voter must sign the poll list by mark, which must be witnessed by one (1) of the poll clerks or assistant poll clerks acting under IC 3-6-6, who shall place the poll clerk's or assistant poll clerk's initials after or under the mark.

(d) After December 31, 2005, each line on a poll list sheet provided to take a voter's current residence address must include a box under the heading "Address Unchanged" so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list.

SECTION 2. IC 3-11-3-18, AS AMENDED BY P.L.209-2003, SECTION 108, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2004]: Sec. 18. (a) At the extreme top of a poll list sheet the heading "VOTERS POLL LIST" should appear, followed by the following information:

- (1) The type of election.
- (2) The date of the election.
- (3) ~~After December 31, 2003~~; Mail in registration requiring additional voter identification.
- (4) The name of the precinct, township (or ward), and county.

(b) Following the information required in subsection (a), the following headings should appear from left to right on each sheet:

- (1) "Signature of Voter".
- (2) "Address of Voter".
- (3) **After December 31, 2005, "Address Unchanged".**
- (4) "Voter Identification Number (Optional)".
- ~~(4)~~ (5) "If any voter shows his or her ballot after being marked, or by accident mutilates or defaces his or her ballot, note it in this column. Also note any other irregularity in this column."

(c) **After December 31, 2004, under the heading set forth in subsection (b)(3), each line of a poll list sheet must have a box so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list.**

(d) This section expires January 1, 2006.

SECTION 3. IC 3-11-8-25.1, AS ADDED BY P.L.209-2003, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25.1. (a) This section applies after December 31, 2005.

(b) After a voter has passed the challengers or has been sworn in, the voter shall be admitted to the polls. Upon entering the polls, the voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

- (1) The voter's name.
- (2) **Except as provided in subsection (f),** the voter's current residence address.

(c) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

- (1) ask the voter to provide or update the voter's voter identification number;
- (2) tell the voter the number the voter may use as a voter identification number; and
- (3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(d) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(e) If, in a precinct governed by subsection (c):

- (1) the poll clerk does not execute a challenger's affidavit; or
- (2) the voter executes a challenged voter's affidavit under section 22 of this chapter or executed the affidavit before signing the poll list;

the voter may then vote.

(f) Each line on a poll list sheet provided to take a voter's current address must include a box under the heading "Address Unchanged" so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list.

SECTION 4. IC 3-11-8-25.5, AS AMENDED BY P.L.209-2003, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25.5. If an individual signs the individual's name and **either:**

- (1) signs the individual's address; or**
- (2) after December 31, 2005, checks the "Address Unchanged" box;**

on the poll list under section 25 of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, the voter may not be permitted to reenter the polls to cast a ballot at the election.

SECTION 5. IC 3-11-8-26.1, AS ADDED BY P.L.209-2003, SECTION 138, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2004]: Sec. 26.1. (a) This section applies after December 31, 2005.

(b) If a voter:

- (1) cannot sign; or
- (2) is a voter with a disability that makes it difficult for the voter to sign;

the voter's name and address, the poll clerks shall, by proper interrogation, satisfy themselves that the voter is the person the voter represents the voter to be.

(c) If satisfied as to the voter's identity under subsection (b), one (1) of the poll clerks shall then place the following on the poll list:

- (1) The voter's name.
- (2) **Except as provided in subsection (f)**, the voter's current residence address.

(d) The poll clerks shall:

- (1) ask the voter to provide or update the voter's voter identification number;
- (2) tell the voter the number the voter may use as a voter identification number; and
- (3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(e) The poll clerk shall then add the clerk's initials in parentheses, after or under the signature. The voter then may vote.

(f) Each line on a poll list sheet provided to take a voter's current residence address must include a box under the heading "Address Unchanged" so that the poll clerk may check the box to indicate that the residence address shown on the poll list is the voter's current residence address instead of writing the voter's current residence address on the poll list.

P.L.3-2004

[H.1018. Approved March 9, 2004.]

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-19-3-26, AS AMENDED BY P.L.81-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The anatomical gift promotion fund is established. The fund consists of amounts distributed to the fund by the auditor of state under IC 9-18-2-16.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The state department shall administer the fund. Any expenses incurred in administering the fund shall be paid from the fund.

(d) Except as provided in subsections (e) and (f), the state department shall select appropriate organ procurement organizations to which the money deposited in the fund shall be distributed:

(e) Except as provided in subsection (f), the state department may not distribute any money from the fund after June 30, 2001:

(f) Beginning July 1, 2002, the state department shall distribute money deposited in the fund as follows:

(1) For the state fiscal year beginning July 1, 2002:

(A) sixty thousand six hundred fifty dollars (\$60,650) for payment to the Indiana Blood Center for testing of bone marrow before entrance into the National Bone Marrow Registry; and

(B) the lesser of fifty thousand dollars (\$50,000) or the amount in the fund after the distribution is made under clause (A) shall be distributed to the bone marrow and organ donor fund established under IC ~~16-46-12-2~~.

After the distribution to the bone marrow and organ donor fund under this subdivision, any amount remaining in the fund shall be

~~distributed to the Indiana Donation Alliance Foundation.~~

~~(2) For the state fiscal year beginning July 1, 2003;~~

(d) The money in the fund shall be distributed quarterly to the Indiana Donation Alliance Foundation for the purpose of implementing an organ, tissue, and marrow registry and to promote organ, tissue, and marrow donation.

~~(g)~~ **(e) The Indiana Donation Alliance Foundation shall keep information regarding the identity of an individual who has indicated a desire to make an organ or tissue donation confidential.**

~~(h)~~ **(f) The Indiana Donation Alliance Foundation shall submit an annual report, including a list of all expenditures, to the chairperson of the:**

- (1) legislative council;**
- (2) senate health committee; and**
- (3) house public health committee;**

before January 15. The report must be in an electronic format under IC 5-14-6.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(h) This subsection applies if the Indiana Donation Alliance Foundation:

- (1) loses its status as an organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; or**
- (2) ceases its affiliation with at least three (3) of the following organizations:**

- (A) American Red Cross Tissue Service.**
- (B) Children's Organ Transplant Association.**
- (C) Community Tissue Services.**
- (D) Indiana Lions Eye & Tissue Transplant Bank.**
- (E) Indiana Organ Procurement Organization.**
- (F) St. Joseph Hospital Tissue Bank and Indiana Cardiac Retrieval.**

The Indiana Donation Alliance Foundation shall report in an electronic format under IC 5-14-6 to the chairpersons of the senate standing committee, as determined by the president pro tempore of the senate, and the house standing committee, as determined by the speaker of the house of representatives, that have subject

matter jurisdiction over health issues. The chairpersons shall review the report and recommend to the state department whether to continue distributions under subsection (d).

(i) This section expires ~~June 30, 2004~~; **July 1, 2007.**

SECTION 2. An emergency is declared for this act.

P.L.4-2004

[H.1087. Approved March 9, 2004.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 14-33-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) This section applies to all districts. ~~except for districts described in section 3 of this chapter.~~

(b) To add area to a district already established:

(1) the same procedure must be used as is provided for the establishment of a district with the petition addressed to the court having jurisdiction over the district; or

(2) the board may pass a resolution adding additional area to the district already established if the board has received a petition that:

(A) is signed by:

(i) the majority of freeholders; or

(ii) a municipality under IC 14-33-2-7;

within the area proposed to be added; and

(B) requests the addition of the area to the district.

The resolution may contain reasonable terms and conditions imposed on the additional area.

(c) The board shall file the resolution and petition with the court.

(d) Upon receipt of a petition or a petition and a resolution, the court shall do the following:

- (1) Set a date for a hearing.
- (2) Have notice published and mailed to:
 - (A) the commission; and
 - (B) the freeholders both in the district and in the area proposed to be added;
 in the same manner in which notice is required for notice of the hearing on the original petition to establish the district.
- (e) If:
 - (1) an objection is not filed at the hearing by:
 - (A) the commission; or
 - (B) an owner of real property either in the district or in the area to be added; and
 - (2) the court determines that the petition is proper;
 the court shall order the district established in the additional area.
- (f) If an objection is filed, the court shall do the following:
 - (1) Determine at the hearing the following:
 - (A) The sufficiency of the petition.
 - (B) The necessity and feasibility of adding the area.
 - (2) Make the order according to the facts found.

SECTION 2. IC 14-33-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. **(a)** If a vacancy occurs on the board, the board ~~of commissioners of the county~~ shall **vote to** appoint a member to serve until the next annual meeting.

(b) If the vote held under subsection (a) results in a tie, a judge of the circuit court of the county in which the district was established shall designate a person to serve as a member until the next annual meeting.

(c) At the **next** annual meeting a director shall be elected to complete the term.

SECTION 3. IC 14-33-4-3 IS REPEALED [EFFECTIVE JULY 1, 2004].

P.L.5-2004

[H.1114. Approved March 9, 2004.]

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-2.5-4-6, AS AMENDED BY P.L.104-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As used in this section, "telecommunication services" means the transmission of messages or information by or using wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. The term does not include value added services in which computer processing applications are used to act on the form, content, code, or protocol of the information for purposes other than transmission.

(b) A person is a retail merchant making a retail transaction when the person:

- (1) furnishes or sells an intrastate telecommunication service; and
- (2) receives gross retail income from billings or statements rendered to customers.

(c) Notwithstanding subsection (b), a person is not a retail merchant making a retail transaction when:

- (1) the person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of the telecommunication services described in subsection (a);
- (2) the person furnishes or sells the telecommunication services described in subsection (a) to another person described in this section or in section 5 of this chapter;
- (3) the person furnishes telecommunications services described in subsection (a) to another person who is using a prepaid telephone calling card or prepaid telephone authorization number described in section 13 of this chapter; or
- (4) the person furnishes intrastate mobile telecommunications service (as defined in IC 6-8.1-15-7) to a customer with a place of

primary use that is not located in Indiana (as determined under IC 6-8.1-15).

(d) Subject to IC 6-2.5-12 and IC 6-8.1-15, and notwithstanding subsections (a), (b), and (c), if charges for telecommunication services not taxable under this article are aggregated with and not separately stated from charges subject to taxation under this article, the charges for nontaxable telecommunication services are subject to taxation unless the service provider can reasonably identify the charges not subject to the tax from the service provider's books and records kept in the regular course of business.

SECTION 2. **An emergency is declared for this act.**

P.L.6-2004

[H.1132. Approved March 9, 2004.]

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-17.2-3.5-12, AS AMENDED BY P.L.18-2003, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) A provider shall, at ~~the provider's or individual's~~ **no expense to the state**, maintain and make available to the division upon request a copy of a limited criminal history for:

- (1) the provider, if the provider is an individual;
- (2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is:
 - (A) at least eighteen (18) years of age; or
 - (B) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court; and
- (3) any individual who:
 - (A) is employed; or
 - (B) volunteers;

as a caregiver at the facility where the provider operates a child

care program.

A provider shall apply for a limited criminal history for an individual described in subdivision (3) before the individual is employed or allowed to volunteer as a caregiver.

(b) In addition to the requirement under subsection (a), a provider shall report to the division any:

- (1) police investigations;
- (2) arrests; and
- (3) criminal convictions;

not listed on a limited criminal history obtained under subsection (a) regarding any of the persons listed in subsection (a).

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the provider receives the limited criminal history required under subsection (a) from the state police department if:

(1) the provider:

- (A) has applied for the limited criminal history required under subsection (a); and
- (B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency before the individual is employed or allowed to volunteer as a caregiver; and

(2) the local criminal history does not reveal that an individual has been convicted of a:

- (A) felony;
- (B) misdemeanor related to the health or safety of a child;
- (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
- (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a limited criminal history is required under this section has been convicted of a:

- (1) felony;
- (2) misdemeanor related to the health or safety of a child;
- (3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
- (4) misdemeanor for operating a child care home without a

license under IC 12-17.2-5-35;
until the individual is dismissed from employment or volunteer service at the facility where the provider operates a child care program or no longer resides with the provider.

(e) A provider shall maintain a written policy requiring an individual for whom a limited criminal history is required under this section to report any criminal convictions of the individual to the provider.

SECTION 2. IC 12-17.2-3.5-12.1, AS AMENDED BY P.L.18-2003, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12.1. (a) A provider shall, at ~~the provider's or individual's~~ **no expense to the state**, maintain and make available to the division upon request a copy of drug testing results for:

- (1) the provider, if the provider is an individual;
- (2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is at least eighteen (18) years of age; and
- (3) an individual who:
 - (A) is employed; or
 - (B) volunteers;
 as a caregiver at the facility where the provider operates a child care program.

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A provider that is not a child care ministry or a child care center shall maintain a written policy specifying the following:

- (1) That the:
 - (A) use of:
 - (i) tobacco;
 - (ii) alcohol; or
 - (iii) a potentially toxic substance in a manner other than the substance's intended purpose; and
 - (B) use or possession of an illegal substance;
 is prohibited in the facility where the provider operates a child care program when child care is being provided.
- (2) That drug testing of individuals who serve as caregivers will be:

(A) performed on a random basis, based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) A provider that is a child care ministry or a child care center shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

(i) tobacco; or

(ii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of alcohol or an illegal substance;

is prohibited in the facility where the provider operates a child care program when child care is being provided.

(2) That drug testing of individuals who serve as caregivers will be:

(A) performed on a random basis, based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(d) If:

(1) the drug testing results obtained under subsection (a), (b), or (c) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B); or

(2) an individual refuses to submit to a drug test;

the provider is ineligible to receive a voucher payment until the individual is suspended or terminated from employment or volunteer service at the facility or no longer resides with the provider.

(e) A provider that suspends an individual described in subsection (d) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B).

(f) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

SECTION 3. IC 12-17.2-4-3.5, AS ADDED BY P.L.18-2003,

SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. (a) A child care center shall, at ~~the child care center's or individual's~~ **no expense to the state**, maintain and make available to the division upon request a copy of drug testing results for an individual who:

- (1) is employed; or
- (2) volunteers;

as a caregiver at the child care center. The drug testing results required under this subsection must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care center shall maintain a written policy specifying the following:

- (1) That the:

- (A) use of:

- (i) tobacco; or

- (ii) a potentially toxic substance in a manner other than the substance's intended purpose; and

- (B) use or possession of alcohol or an illegal substance;

is prohibited in the child care center when child care is being provided.

- (2) That drug testing of individuals who serve as caregivers at the child care center will be:

- (A) performed on a random basis, based on a protocol established or approved by the division; and

- (B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

- (c) If:

- (1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B); or

- (2) an individual refuses to submit to a drug test;

the child care center shall immediately suspend or terminate the individual's employment or volunteer service.

(d) A child care center that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B).

(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

(f) A child care center that does not comply with this section is subject to:

- (1) denial of an application for a license; or
- (2) suspension or revocation of a license issued;

under this chapter.

SECTION 4. IC 12-17.2-5-3.5, AS ADDED BY P.L.18-2003, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. (a) A child care home shall, at ~~the child care home's or individual's~~ **no expense to the state**, maintain and make available to the division upon request a copy of drug testing results for:

- (1) the provider;
- (2) an individual who resides with the provider and who is at least eighteen (18) years of age; and
- (3) an individual who:
 - (A) is employed; or
 - (B) volunteers;

as a caregiver at the child care home.

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care home shall maintain a written policy specifying the following:

- (1) That the:
 - (A) use of:
 - (i) tobacco;
 - (ii) alcohol; or
 - (iii) a potentially toxic substance in a manner other than the substance's intended purpose; and
 - (B) use or possession of an illegal substance;

is prohibited in the child care home when child care is being provided.

- (2) That drug testing of individuals who serve as caregivers at the child care home will be:

- (A) performed on a random basis, based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) If:

(1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B); or

(2) an individual refuses to submit to a drug test;

the child care home shall immediately suspend or terminate the individual's employment or volunteer service.

(d) A child care home that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B).

(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

(f) A child care home that does not comply with this section is subject to:

(1) denial of an application for a license; or

(2) suspension or revocation of a license issued;

under this chapter.

P.L.7-2004

[H.1135. Approved March 9, 2004.]

AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-24-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. **(a)** There is established in each psychiatric, benevolent, penal, and correctional institution a fund to be known ~~either~~ as the:

- (1) patients' recreation fund;
- (2) students' recreation fund; or ~~as the~~
- (3) inmates' recreation fund.

(b) These funds shall be used, at the discretion of the superintendent or warden subject to the approval of the chief administrative officer of the department, division, or state agency having administrative control and supervision over the institution, for the direct benefit of persons who are inmates or patients in such institutions, and shall not be used for any purposes which are covered by state appropriations. ~~Provided, That such~~

(c) ~~The~~ funds shall be expended for ~~such~~ purposes ~~and~~ in accordance with the policies of the department, division, or state agency having administrative control over such institution. The expenditures may include, but ~~shall not necessarily be~~ **are not** limited to:

- (1) purchased entertainment;
- (2) magazine subscriptions for the libraries, wards, or units of such institutions;
- (3) special recreational equipment and supplies;
- (4) special foods for parties or celebrations;
- (5) educational materials;**
- (6) phonograph records, televisions, radios, and similar items when the ~~same items~~ cannot be purchased from regular appropriations; and
- (7) ~~such~~ **any** other purposes not covered by regular appropriations; ~~which~~

that will provide a direct benefit to **or assist in the rehabilitation of** the inmates or patients of such institutions.

P.L.8-2004

[H.1202. Approved March 9, 2004.]

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-19-10-8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) The state department shall support the goals and objectives of the state's counterterrorism programs by collecting data related to:**

(1) symptoms; and

(2) health syndromes;

from outbreaks or suspected outbreaks of diseases or other health conditions that may be a danger to public health.

(b) A health care provider or other entity that collects data described in subsection (a) shall report to the state department in accordance with rules adopted under section 5 of this chapter.

(c) The state department shall establish reporting, monitoring, and prevention procedures for data collected under this section.

(d) Data:

(1) collected under subsection (a); or

(2) reported under subsection (b);

from which the identity of an individual may be ascertained are confidential.

SECTION 2. IC 20-8.1-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) A school corporation may develop and implement a system of notifying the parent or guardian of a student when:**

(1) the student fails to attend school; and

(2) the student does not have an excused absence for that day.

(b) A school corporation or an accredited nonpublic school shall report to the local health department the percentage of student absences above a threshold determined by the department by rule adopted under IC 4-22-2.

SECTION 3. IC 35-48-2-10, AS AMENDED BY P.L.288-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) The controlled substances listed in this section are included in schedule IV.

(b) Narcotic drugs. Unless specifically excepted in a rule adopted by the board or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in the following limited quantities:

(1) Not more than 1 milligram of difenoxin (9618) and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) D e x t r o p r o p o x y p h e n e (a l p h a - (+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane (9273).

(c) Depressants. Unless specifically excepted in a rule adopted by the board or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Alprazolam (2882).

Barbital (2145).

Bromazepam (2748).

Camazepam (2749).

Carisoprodol.

Chloral betaine (2460).

Chloral hydrate (2465).

Chlordiazepoxide (2744).

Clobazam (2751).

Clonazepam (2737).

Clorazepate (2768).

Clotiazepam (2752).

Cloxazolam (2753).

Delorazepam (2754).

Diazepam (2765).

Estazolam (2756).

Ethchlorvynol (2540).

Ethinamate (2545).

Ethyl loflazepate (2758).
Fludiazepam (2759).
Flunitrazepam (2763).
Flurazepam (2767).
Halazepam (2762).
Haloxazolam (2771).
Ketazolam (2772).
Loprazolam (2773).
Lorazepam (2885).
Lormetazepam (2774).
Mebutamate (2800).
Medazepam (2836).
Meprobamate (2820).
Methohexital (2264).
Methylphenobarbital (mephobarbital) (2250).
Midazolam (2884).
Nimetazepam (2837).
Nitrazepam (2834).
Nordiazepam (2838).
Oxazepam (2835).
Oxazolam (2839).
Paraldehyde (2585).
Petrichloral (2591).
Phenobarbital (2285).
Pinazepam (2883).
Prazepam (2764).
Quazepam (2881).
Temazepam (2925).
Tetrazepam (2886).
Triazolam (2887).
Zolpidem (Ambien) (2783).

(d) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible.

Fenfluramine (1670).

(e) Stimulants. Unless specifically excepted in a rule adopted by the

board or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion (1608).
- (2) Mazindol (1605).
- (3) Phentermine (1640).
- (4) Pemoline (including organometallic complexes and chelates thereof) (1530).
- (5) Pipradrol (1750).
- (6) SPA ((-)-1-dimethylamino-1,2-diphenylethane (1635).

(f) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances including its salts:

- (1) Pentazocine (9709).

(g) The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b), (c), (d), (e), or (f) from the application of any part of this article if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 4. [EFFECTIVE JULY 1, 2004] IC 35-48-2-10, as amended by this act, applies only to offenses committed after June 30, 2004.

SECTION 5. An emergency is declared for this act.

P.L.9-2004

[H.1360. Approved March 11, 2004.]

AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-5-4-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) This section applies to:**

- (1) a convention required or permitted under this title that is conducted by a political party to nominate candidates; or**
- (2) a caucus conducted by a political party under IC 3-13 to nominate candidates.**

(b) The ballots, poll lists, and other documents or material generated for or used by the convention or caucus are the property of the political party. This property shall be retained and preserved in the manner specified by the rules of the political party.

SECTION 2. IC 3-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 3. (a) A person who is a candidate for elected office or, after December 31, 2004, a member of a candidate's committee** may not be appointed as:

- (1) a member of a county election board;**
- (2) a proxy of record for a member under section 4.5 of this chapter; or**
- (3) an alternate proxy of record for ~~the~~ a member under section 4.5 of this chapter.**

(b) If an appointed member, a proxy, or an alternate proxy becomes:

- (1) a candidate for elected office; or**
- (2) after December 31, 2004, a member of a candidate's committee;**

the member, proxy, or alternate proxy may not continue to serve on the county election board. ~~In addition,~~

(c) An appointed member, a proxy, or an alternate proxy may not hold elected office while a member serving on the county election board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 3. IC 3-6-5.2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4.5. (a) This section applies after December 31, 2004. A person who is a candidate for elected office or a member of a candidate's committee may not be appointed as a member of the board.**

(b) If an appointed member becomes a:

(1) candidate for elected office; or

(2) member of a candidate's committee;

the member may not continue to serve on the board.

(c) An appointed member may not hold elected office while a member of the board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 4. IC 3-6-5.4-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4.5. (a) This section applies after December 31, 2004. A person who is a candidate for elected office or a member of a candidate's committee may not be appointed as a member of the board.**

(b) If an appointed member becomes a:

(1) candidate for elected office; or

(2) member of a candidate's committee;

the member may not continue to serve on the board.

(c) An appointed member may not hold elected office while a member of the board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 5. IC 3-7-14-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. An employee of the commission who provides an individual with a driver's license or identification card application shall do the following:**

(1) Inform each individual who applies for a driver's license or an

identification card that the information the individual provides on the individual's application will be used to register the individual to vote unless:

- (A) the individual is not eligible to vote; ~~or~~
- (B) the individual declines to register to vote or fails to complete the voter registration part of the application; **or**
- (C) the individual answers "no" to either question described by IC 3-7-22-5(3) or IC 3-7-22-5(4).**

(2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application if requested to do so by the individual.

(3) Check the completed voter registration form for legibility and completeness.

(4) Deliver the completed registration form to the license branch manager (or the employee designated by the manager to be responsible for voter registration services) for transmittal to the appropriate circuit court clerk or board of registration.

(5) Inform the individual that the individual will receive a mailing from the ~~circuit court clerk or board of county voter~~ **office** of the county where the individual resides concerning the disposition of the voter registration application.

(6) Inform each individual who submits a change of address for a driver's license or identification card that the information serves as notice of a change of address for voter registration unless the applicant states in writing on the form that the change of address is not for voter registration purposes.

SECTION 6. IC 3-7-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. An employee of the office who provides an individual with an application for assistance or services under section 3 of this chapter shall do the following:

(1) Inform each individual who applies for assistance or services that the information the individual provides on the individual's voter registration application will be used to register the individual to vote unless:

- (A) the individual is not eligible to vote; or
- (B) the individual:
 - (i) declines to register to vote; ~~or~~
 - (ii) fails to complete the voter registration part of the

application; **or**

(iii) answers "no" to either question described by IC 3-7-22-5(3) or IC 3-7-22-5(4).

(2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application unless the individual refuses assistance, as provided in 42 U.S.C. 1973gg-5(a)(4)(ii).

(3) Check the completed voter registration form for legibility and completeness.

(4) Deliver the completed registration form to the office administrator (or the employee designated by the administrator to be responsible for voter registration services) for transmittal to the appropriate ~~circuit court clerk or board of county voter~~ **registration office.**

(5) Inform the individual that the individual will receive a mailing from the ~~circuit court clerk or board of county voter~~ **registration office** of the county where the individual resides concerning the disposition of the voter registration application.

SECTION 7. IC 3-7-16-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. An employee or a volunteer of the office who provides an individual with an application for assistance or services under this chapter shall do the following:

(1) Inform each individual who applies for assistance or services that the information the individual provides on the individual's voter registration application will be used to register the individual to vote unless:

(A) the individual is not eligible to vote; ~~or~~

(B) the individual declines to register to vote or fails to complete the voter registration part of the application; **or**

(C) answers "no" to either question described by IC 3-7-22-5(3) or IC 3-7-22-5(4).

(2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application unless the individual refuses assistance, as provided in 42 U.S.C. 1973gg-5(a)(4)(ii).

(3) Check the completed voter registration form for legibility and completeness.

(4) Deliver the completed registration form to the office administrator (or the employee designated by the administrator to be responsible for voter registration services) for transmittal to the appropriate ~~circuit court clerk or board of county voter~~ **registration office.**

(5) Inform the individual that the individual will receive a mailing from the ~~circuit court clerk or board of county voter~~ **registration office** of the county where the individual resides concerning the disposition of the voter registration application.

SECTION 8. IC 3-7-18-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. An employee of the office who provides an individual with an application for assistance or services under this chapter shall do the following:

(1) Inform each individual who applies for assistance or services that the information the individual provides on the individual's voter registration application will be used to register the individual to vote unless:

(A) the individual is not eligible to vote; ~~or~~

(B) the individual declines to register to vote or fails to complete the voter registration part of the application; **or**

(C) **answers "no" to either question described by IC 3-7-22-5(3) or IC 3-7-22-5(4).**

(2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application unless the individual refuses assistance, as provided in 42 U.S.C. 1973gg-5(a)(4)(A)(ii).

(3) Check the completed voter registration form for legibility and completeness.

(4) Deliver the completed registration form to the office administrator (or the employee designated by the administrator to be responsible for voter registration services) for transmittal to the appropriate ~~circuit court clerk or board of county voter~~ **registration office.**

(5) Inform the individual that the individual will receive a mailing from the ~~circuit court clerk or board of county voter~~ **registration office** of the county where the individual resides concerning the disposition of the voter registration application.

SECTION 9. IC 3-8-2-20 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2004]: Sec. 20. A person who files a declaration of candidacy under this chapter may, at any time ~~no~~ **not** later than noon ~~seventy-four (74)~~ **seventy-one (71)** days before the date set for holding the primary election, file a statement with the same office where the person filed the declaration of candidacy, stating that the person is no longer a candidate and does not wish the person's name to appear on the primary election ballot as a candidate.

SECTION 10. IC 3-8-5-11, AS AMENDED BY P.L.167-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) ~~To determine who may vote at the convention; the standards prescribed by IC 3-10-1-6 through IC 3-10-1-10 for determining political party affiliation at a primary election apply. An individual is eligible to participate in a town convention if the individual meets all the following requirements:~~

- (1) **The voter resides in the town on the date the convention is conducted.**
- (2) **The voter became a registered voter of the town not later than the date specified in the rules of the major political party conducting the convention.**
- (3) **The voter subscribes to a statement under the penalties for perjury stating that the individual is affiliated with the political party conducting the convention.**
- (4) **The voter complies with any other requirement for determining political party affiliation set forth in the rules of the major political party conducting the convention.**

(b) The county election board shall furnish the secretary of the convention a list of all the town's voters. **The list must state the date that the individual became a voter of the town, if the individual became a voter of the town during the year in which the list is furnished.** An individual who wants to vote in a town convention must register with the secretary of the convention **and subscribe to the statement described in subsection (a)(3)** before being permitted to vote in the convention. The secretary of the convention shall note on the list of the town's voters when an individual registers with the secretary.

(c) An individual may not vote at more than one (1) convention held in the town during the same election year.

SECTION 11. IC 3-8-7-18 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. **(a) This subsection applies to an office to which only one (1) candidate may be elected.** If a certificate or petition of nomination contains the name of more than one (1) candidate for ~~an elected the~~ office, ~~neither name~~ **none of the names of the candidates on the certificate or petition** may be printed **on the ballot** as a candidate for the office.

(b) This subsection applies to an office for which more than one (1) candidate may be elected. If the certificate or petition contains the names of more than the total number of candidates that may be elected to that office, none of the names of the candidates on the certificate or petition may be printed on the ballot as a candidate for the office.

SECTION 12. IC 3-9-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.5. **(a) This section:**

(1) applies after December 31, 2004; and

(2) does not apply to a national committee of a political party.

(b) For purposes of determining the deadline for filing a statement of organization under section 3 of this chapter, a committee becomes a regular party committee when the committee accepts contributions or makes expenditures during a calendar year:

(1) to influence the election of a candidate for state, legislative, or local office; and

(2) that total more than one hundred dollars (\$100).

SECTION 13. IC 3-10-1-5, AS AMENDED BY P.L.176-1999, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a)** Whenever there is no contest in a political party for the nomination of a candidate or candidates for an office, the party may hold a primary election for that nomination. The appropriate election board shall certify the names of the candidates for each nomination for which there is no contest as though a primary election had been held. However, except as provided in subsections (b) through (c), if there is a contest in any party for any nomination, the name of each candidate of each party shall be placed on the primary election ballot, whether or not the candidate is opposed.

(b) If the only contest in a political party is for the election of a precinct committeeman or a delegate to the party's state convention, the

names of unopposed candidates for nomination are not required to be placed on the primary election ballot unless the appointed member of the county election board affiliated with the political party files a written request that these names be printed on the primary election ballot.

(c) The names of unopposed candidates for election as a precinct committeeman or a delegate to a political party's state convention are not required to be placed on the primary election ballot unless ~~the~~ **an** appointed member of the county election board affiliated with the political party files a written request that these names be printed on the primary election ballot.

(d) If a party wants to conduct a primary under subsection (c), ~~the~~ **an appointed member of the** county ~~chairman of election board~~ **affiliated with** the party must file a notice with the county election board not later than noon seven (7) days after the final date for filing a declaration of candidacy, stating that the party will hold a primary.

SECTION 14. IC 3-10-2-15, AS AMENDED BY P.L.66-2003, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) This section applies to a political party whose nominee received at least two percent (2%) but less than ten percent (10%) of the votes cast for secretary of state at the last election for that office.

(b) This section applies only to a local office that is:

- (1) not listed in IC 3-8-2-5; and
- (2) not a municipal office subject to IC 3-8-5-17 or IC 3-10-6-12.

(c) A political party subject to this section shall nominate the party's candidate for a local office at a county convention of the party **conducted not later than noon on the date specified by IC 3-13-1-7(a)(1) for a major political party to act to fill a candidate vacancy.**

(d) The chairman and secretary of the convention shall execute a certificate of nomination in writing, setting out the following:

- (1) The name of each nominee as:
 - (A) the nominee wants the nominee's name to appear on the ballot; and
 - (B) the nominee's name is permitted to appear on the ballot under IC 3-5-7.
- (2) The residence address of each nominee.

- (3) The office for which each nominee was nominated.
- (4) That each nominee is legally qualified to hold office.
- (5) The political party device or emblem by which the ticket will be designated on the ballot.

Both the chairman and secretary shall acknowledge the certificate before an officer authorized to take acknowledgment of deeds.

(e) Each candidate nominated under this section shall execute a consent to the nomination in the same form as a candidate nominated by petition under IC 3-8-6.

(f) The certificate required by subsection (d) and the consent required by subsection (e) must be filed with the circuit court clerk of the county containing the greatest percentage of population of the election district for which the candidate has been nominated by the convention not later than noon ~~July 15~~; **on the date specified by IC 3-13-1-15(c) for a major political party to file a certificate of candidate selection.**

(g) A candidate's consent to the nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to the nomination. If there is a difference between the name on the candidate's consent to the nomination and the name on the candidate's voter registration record, the officer with whom the consent to the nomination is filed shall forward the information to the voter registration officer of the appropriate county. The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to the nomination.

(h) A question concerning the validity of a candidate's nomination under this section shall be determined by a county election board in accordance with IC 3-13-1-16.5(b) and IC 3-13-1-16.5(c).

(i) A nominee who wants to withdraw must file a notice of withdrawal in accordance with IC 3-8-7-28.

SECTION 15. IC 3-10-6-12, AS AMENDED BY P.L.202-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) This section applies to a political party:

- (1) not qualified to conduct a primary election under IC 3-10; and
- (2) not required to nominate candidates by a petition of

nomination under IC 3-8-6.

(b) The political party may conduct a convention to nominate candidates for city or town office **not later than noon on the date specified by IC 3-13-1-7(a)(1) for a major political party to act to fill a candidate vacancy.**

(c) The chairman and secretary of the convention shall execute and acknowledge a certificate setting forth the nominees of the convention in accordance with IC 3-8-5-13. The certificate must be filed with the circuit court clerk of the county containing the greatest percentage of population of the municipality not later than noon ~~August 28~~ **on the date specified by IC 3-13-1-15(c) for a major political party to file a certificate of candidate selection.**

(d) Each candidate nominated under this section shall execute a consent to the nomination in the same form as a candidate nominated by petition under IC 3-8-6. The consent must be filed with the certificate under subsection (c).

(e) A candidate's consent to the nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to the nomination. If there is a difference between the name on the candidate's consent to the nomination and the name on the candidate's voter registration record, the officer with whom the consent to the nomination is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to the nomination.

(f) A question concerning the validity of a candidate's nomination under this section shall be determined by a county election board in accordance with IC 3-13-1-16.5(b) and IC 3-13-1-16.5(c).

(g) A nominee who wants to withdraw must file a notice of withdrawal in accordance with IC 3-8-7-28.

SECTION 16. IC 3-10-7-2.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.9. (a) This section does not apply to a town located wholly or partially within a county having a consolidated city.**

(b) During the year preceding a municipal election conducted

under section 2 of this chapter, a town may adopt an ordinance changing the time municipal elections are held for the offices of the town legislative body members, clerk-treasurer, and judge.

(c) The ordinance described in subsection (b) must provide all the following:

(1) The years in which town elections shall be held. A town election may not be held in a year following a year in which an election for electors for President of the United States is held.

(2) That the elections for town offices shall be held during general elections or municipal elections, or both.

(3) Which town officers are to be elected in each of the years of the town election cycle. The ordinance must provide that at least two (2) town officers shall be elected in each year of the town election cycle. The ordinance may provide for all town officers to be elected at the same election.

(4) The term of office of each town officer elected in the first election cycle after adoption of the ordinance. A term of office set under this subdivision may not exceed four (4) years.

(5) That the term of office of each town officer elected after the first election cycle after adoption of the ordinance is four (4) years.

(6) That the term of office of each town officer begins on January 1 after the election.

(d) A town may repeal an ordinance adopted under subsection (b) subject to both of the following:

(1) The ordinance may not be repealed earlier than twelve (12) years after the ordinance was adopted.

(2) The ordinance may be repealed only in a year preceding a municipal election held at the time described in IC 3-10-6-5.

SECTION 17. IC 3-10-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. If a town has established staggered terms for its town council, or has adopted an ordinance under section 2.7 or 2.9 of this chapter, the county election board shall conduct a municipal election in that town that coincides with a general election.

SECTION 18. IC 3-11-8-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.5. A poll clerk may record

the names of individuals who have signed the poll list and make that record available to a watcher or pollbook holder who requests the information. However, the poll clerk must ensure that:

- (1) a voter is not delayed in casting the voter's votes as a result of the preparation of the record, or by providing the information; and
- (2) the poll clerk does not engage in electioneering (as defined under IC 3-14-3-16) in providing this information.

SECTION 19. IC 11-10-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. Upon the discharge of a criminal offender, the department shall **do the following:**

- (1) Certify the discharge to the clerk of the sentencing court, ~~Upon receipt of the certification, the clerk who~~ shall make an entry on the record of judgment that the sentence has been satisfied.
- (2) **Inform the criminal offender in writing of the right to register to vote under IC 3-7-13-5.**
- (3) **Provide the criminal offender with a copy of the voter's bill of rights prescribed by the Indiana election commission under IC 3-5-8.**

SECTION 20. **An emergency is declared for this act.**

P.L.10-2004

[S.19. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-20-5-4, AS AMENDED BY P.L.147-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. In addition to the highways established and designated as heavy duty highways under section 1 of this chapter, the following highways are designated as extra heavy duty highways:

- (1) Highway 41, from 129th Street in Hammond to Highway 312.

- (2) Highway 312, from Highway 41 to State Road 912.
- (3) Highway 912, from Michigan Avenue in East Chicago to the U.S. 20 interchange.
- (4) Highway 20, from Clark Road in Gary to Highway 39.
- (5) Highway 12, from one-fourth (1/4) mile west of the Midwest Steel entrance to Highway 249.
- (6) Highway 249, from Highway 12 to Highway 20.
- (7) Highway 12, from one and one-half (1 1/2) miles east of the Bethlehem Steel entrance to Highway 149.
- (8) Highway 149, from Highway 12 to a point thirty-six hundredths (.36) of a mile south of Highway 20.
- (9) Highway 39, from Highway 20 to the Michigan state line.
- (10) Highway 20, from Highway 39 to Highway 2.
- (11) Highway 2, from Highway 20 to Highway 31.
- (12) Highway 31, from the Michigan state line to Highway 23.
- (13) Highway 23, from Highway 31 to Olive Street in South Bend.
- (14) Highway 35, from South Motts Parkway thirty-four hundredths (.34) of a mile southeast to the point where Highway 35 intersects with the overpass for Highway 20/Highway 212.
- (15) State Road 249 from U.S. 12 to the point where State Road 249 intersects with Nelson Drive at the Port of Indiana.
- (16) State Road 912 from the 15th Avenue and 169th Street interchange one and six hundredths (1.06) miles north to the U.S. 20 interchange.
- (17) U.S. 20 from the State Road 912 interchange three and seventeen hundredths (3.17) miles east to U.S. 12.
- (18) U.S. 6 from the Ohio state line to State Road 9.**
- (19) U.S. 30 from Allen County/Whitley County Line Road (also known as County Road 800 East) to State Road 9.**
- (20) State Road 9 from U.S. 30 to U.S. 6.**

SECTION 2. An emergency is declared for this act.

P.L.11-2004
[S.36. Approved March 16, 2004.]

AN ACT concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. [EFFECTIVE UPON PASSAGE] (a) The amendment to Article 10, Section 1 of the Constitution of the State of Indiana agreed to by the One Hundred Twelfth General Assembly (P.L.189-2002) and the One Hundred Thirteenth General Assembly (P.L.278-2003) shall be submitted to the electors of the state at the 2004 general election in the manner provided for the submission of constitutional amendments under IC 3.

(b) Under Article 16, Section 1 of the Constitution of the State of Indiana, which requires the general assembly to submit constitutional amendments to the electors at the next general election after the general assembly agrees to the amendment referred to it by the last previously elected general assembly, and in accordance with IC 3-10-3, the general assembly prescribes the form in which the public question concerning the ratification of this state constitutional amendment must appear on the 2004 general election ballot as follows:

"PUBLIC QUESTION #1

Shall Article 10, Section 1 of the Constitution of the State of Indiana be amended to allow the General Assembly to make certain property exempt from property taxes, including (1) a homeowner's primary residence; (2) personal property used to produce income; and (3) inventory?"

(c) This SECTION expires January 1, 2005.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) The amendment to Article 6, Section 2 of the Constitution of the State of Indiana agreed to by the One Hundred Twelfth General Assembly (P.L.187-2002) and the One Hundred Thirteenth General Assembly (P.L.279-2003) shall be submitted to the electors of the state at the 2004 general election in the manner provided for the submission of

constitutional amendments under IC 3.

(b) Under Article 16, Section 1 of the Constitution of the State of Indiana, which requires the general assembly to submit constitutional amendments to the electors at the next general election after the general assembly agrees to the amendment referred to it by the last previously elected general assembly, and in accordance with IC 3-10-3, the general assembly prescribes the form in which the public question concerning the ratification of this state constitutional amendment must appear on the 2004 general election ballot as follows:

"PUBLIC QUESTION #2

Shall Article 6, Section 2 of the Constitution of the State of Indiana be amended to allow the General Assembly to establish a uniform date for the beginning of the terms of the county offices of clerk of the circuit court, auditor, recorder, treasurer, sheriff, coroner, and surveyor?"

(c) This SECTION expires January 1, 2005.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) The amendment to Article 5, Section 10 of the Constitution of the State of Indiana agreed to by the One Hundred Twelfth General Assembly (P.L.188-2002) and the One Hundred Thirteenth General Assembly (P.L.280-2003) shall be submitted to the electors of the state at the 2004 general election in the manner provided for the submission of constitutional amendments under IC 3.

(b) Under Article 16, Section 1 of the Constitution of the State of Indiana, which requires the general assembly to submit constitutional amendments to the electors at the next general election after the general assembly agrees to the amendment referred to it by the last previously elected general assembly, and in accordance with IC 3-10-3, the general assembly prescribes the form in which the public question concerning the ratification of this state constitutional amendment must appear on the 2004 general election ballot as follows:

"PUBLIC QUESTION #3

Shall Article 5, Section 10 of the Constitution of the State of Indiana be amended to specify: (1) which state official acts as governor when the office of governor and the office of lieutenant governor are both vacant; and (2) the deadline for the General Assembly to meet when either the House or the Senate cannot

assemble a quorum within forty-eight (48) hours after both offices become vacant?".

(c) This SECTION expires January 1, 2005.

SECTION 4. An emergency is declared for this act.

P.L.12-2004

[S.41. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-84 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 84. "Council" refers to the following:

- (1) For purposes of IC 16-21, the hospital council.
- (2) **For purposes of IC 16-25 and IC 16-27, the home health care services and hospice services council.**
- (3) For purposes of IC 16-28 and IC 16-29, the Indiana health facilities council.
- ~~(3)~~ (4) For purposes of IC 16-46-6, the interagency state council on black and minority health.

SECTION 2. IC 16-18-2-96, AS AMENDED BY P.L.2-2003, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 96. (a) "Director", for purposes of IC 16-19-13, refers to the director of the office of women's health established by IC 16-19-13.

(b) "Director", for purposes of IC 16-27, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-27.

(c) "Director", for purposes of IC 16-28, IC 16-29, and IC 16-30, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-28, IC 16-29, and IC 16-30.

~~(c)~~ **(d) "Director", for purposes of IC 16-31, refers to the director of**

the state emergency management agency established under IC 10-14-2-1.

~~(d)~~ (e) "Director", for purposes of IC 16-35-2, refers to the director of the program for children with special health care needs.

SECTION 3. IC 16-18-2-97 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 97. "Division" means the following:

(1) For purposes of IC 16-22-8, the meaning set forth in IC 16-22-8-3.

(2) **For purposes of IC 16-27, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-27.**

(3) For purposes of IC 16-28, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-28.

~~(3)~~ (4) For purposes of IC 16-41-40, the meaning set forth in IC 16-41-40-1.

SECTION 4. IC 16-25-3-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2004]: **Sec. 2.5. The state department shall administer this chapter with the advice of the home health care services and hospice services council established by IC 16-27-0.5-1.**

SECTION 5. IC 16-27-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2004]:

Chapter 0.5. Home Health Care Services and Hospice Services Council

Sec. 1. (a) The home health care services and hospice services council is established.

(b) The council consists of sixteen (16) members as follows:

(1) One (1) licensed physician experienced in home health care.

(2) One (1) licensed physician with certification in hospice and palliative medicine.

(3) Four (4) individuals as follows:

(A) One (1) individual engaged in the administration of a nonhospital based home health agency.

(B) One (1) individual engaged in the administration of a

hospital based home health agency.

(C) One (1) individual engaged in the administration of:

(i) a nonhospital based hospice; or

(ii) a hospice licensed under IC 16-25-3 that provides in-patient care.

(D) One (1) individual engaged in the administration of a hospital based hospice.

(4) One (1) registered nurse who is licensed under IC 25-23 and experienced in home health care.

(5) One (1) registered nurse who is licensed under IC 25-23 with certification in hospice and palliative medicine.

(6) One (1):

(A) physical therapist licensed under IC 25-27;

(B) occupational therapist certified under IC 25-23.5; or

(C) speech-language pathologist licensed under IC 25-35.6; experienced in home health care.

(7) One (1) citizen having knowledge of or experience in hospice care.

(8) One (1) citizen having knowledge of or experience in home health agency care.

(9) One (1) registered pharmacist who is licensed under IC 25-26 with experience in hospice and palliative medicine.

(10) One (1) respiratory care practitioner who is licensed under IC 25-34.5 and experienced in home care.

(11) One (1) individual who is a bereavement counselor with experience in hospice care.

(12) The commissioner or the commissioner's designee.

(13) The secretary of family and social services or the secretary's designee.

(c) The governor shall appoint the members of the council designated by subsection (b)(1) through (b)(11).

(d) Except for the members of the council designated by subsection (b)(12) through (b)(13), all appointments are for four (4) years. If a vacancy occurs, the appointee serves for the remainder of the unexpired term. A vacancy shall be filled from the same group that was represented by the outgoing member.

(e) Except for the members of the council designated by subsection (b)(3), a member of the council may not have a pecuniary interest in the operation of or provide professional

services through employment or under contract to a home health agency licensed under this article or a hospice licensed under IC 16-25.

Sec. 2. (a) The state department shall pay the expenses of the council.

(b) A member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 3. The governor shall appoint one (1) council member to serve as chair and one (1) council member to serve as vice chair.

Sec. 4. The director serves as secretary to the council.

Sec. 5. (a) The council shall meet at least four (4) times a year.

(b) Special meetings of the council shall be called by the chair upon the written request of four (4) members of the council.

Sec. 6. (a) Nine (9) members of the council constitute a quorum for the transaction of all business of the council. The affirmative votes of a majority of the voting members appointed to the council are required for the council to take action on any measure.

(b) The council shall establish procedures to govern the council's deliberations.

Sec. 7. Subject to the rulemaking authority granted in IC 16-25 and IC 16-27, the council shall do the following:

(1) Propose the adoption of rules by the state department under IC 4-22-2 governing the following:

(A) Health and sanitation standards necessary to protect the health, safety, security, rights, and welfare of home health care patients and hospice patients.

(B) Qualifications of applicants for licenses issued under

IC 16-25 and IC 16-27.

(2) Recommend to other state agencies or governing bodies rules necessary to protect the health, safety, security, rights, and welfare of home health care patients and hospice patients.

(3) Act as an advisory body for the division, state health commissioner, and state department.

Sec. 8. The council may recommend interpretive guidelines when necessary to assist a home health agency or hospice in meeting the requirements of a rule.

Sec. 9. (a) The state department may request the council to propose a new rule or an amendment to a rule necessary to protect the health, safety, rights, and welfare of the home health care patients and hospice patients. If the council does not propose a rule within ninety (90) days after the state department's request, the state department may propose the rule.

(b) The executive board shall consider rules proposed by the council under this section and section 7 of this chapter. The executive board may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.

(c) To become effective, all rules proposed by the council under this chapter must be adopted by the executive board in accordance with IC 4-22-2.

P.L.13-2004

[S.42. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-15-12-19, AS AMENDED BY P.L.212-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) This section applies to an individual who

~~(1) is a Medicaid recipient. and~~

~~(2) is not enrolled in the risk-based managed care program.~~

(b) Subject to subsection (c), the office shall develop the following programs regarding individuals described in subsection (a):

(1) A disease management program for recipients with any of the following chronic diseases:

(A) Asthma.

(B) Diabetes.

(C) Congestive heart failure or coronary heart disease.

(D) Hypertension.

(2) A case management program for recipients described in subsection (a) who are at high risk of chronic disease, that is based on a combination of cost measures, clinical measures, and health outcomes identified and developed by the office with input and guidance from the state department of health and other experts in health care case management or disease management programs.

(c) The office shall implement:

(1) a pilot program for at least two (2) of the diseases listed in subsection (b) not later than July 1, 2003; and

(2) a statewide chronic disease program as soon as practicable after the office has done the following:

(A) Evaluated a pilot program described in subdivision (1).

(B) Made any necessary changes in the program based on the evaluation performed under clause (A).

(d) The office shall develop and implement a program required under this section in cooperation with the state department of health and shall use the following ~~health care providers~~ **persons** to the extent possible:

(1) Community health centers.

(2) Federally qualified health centers (as defined in 42 U.S.C. 1396d(l)(2)(B)).

(3) Rural health clinics (as defined in 42 U.S.C. 1396d(l)(1)).

(4) Local health departments.

(5) Hospitals.

(6) Public and private third party payers.

(e) The office may contract with an outside vendor or vendors to assist in the development and implementation of the programs required under this section.

(f) The office and the state department of health shall provide the

select joint commission on Medicaid oversight established by IC 2-5-26-3 with an evaluation and recommendations on the costs, benefits, and health outcomes of the pilot programs required under this section. The evaluations required under this subsection must be provided not more than twelve (12) months after the implementation date of the pilot programs.

(g) The office and the state department of health shall report to the select joint commission on Medicaid oversight established by IC 2-5-26-3 not later than November 1 of each year regarding the programs developed under this section.

SECTION 2. IC 16-38-6-1, AS ADDED BY P.L.212-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. As used in this chapter, "chronic disease" means one (1) of the following conditions:

- (1) Asthma.
- (2) Diabetes.
- (3) Congestive heart failure or coronary heart disease.
- (4) Hypertension.

(5) A condition that the state department:

(A) determines should be included on the registry; and

(B) chooses to add to the registry by rule under IC 4-22-2.

SECTION 3. IC 16-38-6-4, AS ADDED BY P.L.212-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The following persons may report confirmed cases of chronic disease to the chronic disease registry:

- (1) Physicians.
- (2) Hospitals.
- (3) Medical laboratories.

(4) Public and private third party payers.

(b) A person who reports information to the state chronic disease registry under this section may use:

- (1) information submitted to any other public or private chronic disease registry; or
- (2) information required to be filed with federal, state, or local agencies;

when completing a report under this chapter. However, the state department may require additional, definitive information.

(c) The office of Medicaid policy and planning shall provide data

concerning services for chronic diseases reimbursed by the state Medicaid program to the chronic disease registry. The office shall work with the state department to identify the data available and to determine a means to transmit the information to assist the state department in data collection for the chronic disease registry.

P.L.14-2004

[S.72. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-5-2-10, AS AMENDED BY P.L.69-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. "Chute" means the area or pathway that extends fifty (50) feet in length, measured from the ~~position where the poll worker closest to the door or~~ entrance to the polls. ~~is stationed by the inspector.~~ If the property line of the polling place is less than fifty (50) feet from the door or entrance to the polling place, the chute is measured from the exterior door or entrance to the polling place to one-half (1/2) the distance to the property line of the polling place **nearest to the entrance to the polls.** Whenever there are two (2) or more doors or entrances to the polls, the inspector of the precinct shall designate one (1) door or entrance as the door for voters to enter for the purpose of voting.

SECTION 2. IC 3-5-2-23.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23.2. (a) Except as provided in subsection (b), "expedited basis" refers to the processing of:**

- (1) a voter registration application;**
- (2) a cancellation of a voter registration application;**
- (3) a transfer of a voter registration application; or**
- (4) another document that creates or amends the voter registration record of an individual;**

not later than forty-eight (48) hours after the document is received by a county voter registration office or an agency required under IC 3-7 to transmit voter registration documents to a county voter registration office.

(b) If a voter registration application or other document listed in subsection (a) includes a partial Social Security number that must be submitted to the Commissioner of Social Security for verification under 42 U.S.C. 405(r), "expedited basis" refers to the processing of the application or document not later than forty-eight (48) hours after the bureau of motor vehicles commission receives verification from the Commissioner regarding the partial Social Security number.

SECTION 3. IC 3-5-2-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 48. "State office" refers to governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, superintendent of public instruction, attorney general, justice of the supreme court, judge of the court of appeals, **and** judge of the tax court. ~~and clerk of the supreme court.~~

SECTION 4. IC 3-5-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. All expenses for a municipal primary election or municipal election that is conducted by a county election board shall be allowed by the county executive and shall be paid out of the general fund of the county, without any appropriation being required. The county auditor shall certify the amount of that allowance to the fiscal officer of the municipality **not later than thirty (30) days after the municipal primary or municipal election.** The fiscal body of the municipality shall make the necessary appropriation to reimburse the county for the expense of the primary election or election **not later than December 31 of the year in which the municipal election is conducted.**

SECTION 5. IC 3-5-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **(a) Except as provided in subsection (b),** during the period that begins ninety (90) days before a municipal primary election and continues until the day after the following municipal election, all expenses of the primary election and election that cannot be chargeable directly to any municipality shall be apportioned as follows:

- (1) ~~One-fourth (1/4)~~ **Twenty-five percent (25%)** to the county.

(2) ~~Three-fourths (3/4)~~ **Seventy-five percent (75%)** to the municipalities in the county holding the municipal primary election and municipal election.

(b) The apportionment made under subsection (a) does not apply to a town that has entered into an agreement with the county under IC 3-10-7-4 to pay the county a fixed amount for the expenses described in subsection (a).

SECTION 6. IC 3-5-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. **(a) Except as provided in subsection (c),** whenever more than one (1) municipality in a county conducts a municipal primary election, ~~and municipal election;~~ the ~~three-fourths (3/4)~~ **seventy-five percent (75%)** of expenses that cannot be chargeable directly to any particular municipality under section 8 of this chapter shall be apportioned to each municipality in the same ratio that the number of voters who cast a ballot in the municipality at the municipal **primary** election bears to the total number of voters who cast a ballot in all of the municipalities in the county at that municipal **primary** election.

(b) Except as provided in subsection (c), whenever more than one (1) municipality in a county conducts a municipal election, the **seventy-five percent (75%)** of expenses that are not chargeable directly to any particular municipality under section 8 of this chapter **must be apportioned to each municipality in the same ratio that the number of voters who cast a ballot in the municipality at the municipal election bears to the total number of voters who cast a ballot in all of the municipalities in the county that conducted a municipal election.**

(c) The apportionment made under subsection (a) does not apply to a town that has entered into an agreement with the county under IC 3-10-7-4 to pay the county a fixed amount for the expenses described in subsection (a).

SECTION 7. IC 3-5-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The county election board shall, on a form prescribed ~~by the state board of accounts;~~ **under IC 3-6-4.1-14,** itemize all the expenses of any election for which a municipality is required to reimburse the county.

SECTION 8. IC 3-5-7-7, AS ADDED BY P.L.202-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON

PASSAGE]: Sec. 7. (a) A registered voter of the election district a candidate seeks to represent may file a sworn statement with the **commission election division** or a county election board under IC 3-8-1-2 if a candidate uses on the ballot a designation not permitted by section 5 of this chapter.

(b) A complaint filed under this section must contain the following information:

(1) The legal name of the candidate who has used a designation not permitted by section 5 of this chapter.

(2) The designation the candidate has used that is not permitted under section 5 of this chapter.

(c) If the commission or county election board finds that the candidate used a designation not permitted by section 5 of this chapter, the candidate is considered to have withdrawn the candidate's candidacy.

SECTION 9. IC 3-6-6-7, AS AMENDED BY P.L.199-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) An otherwise qualified person is eligible to serve as a precinct election officer unless any of the following apply:

(1) The person is unable to read, write, and speak the English language.

(2) The person has any property bet or wagered on the result of the election.

(3) The person is a candidate to be voted for at the election **in the precinct**, except as an unopposed candidate for a precinct committeeman or state convention delegate.

(4) The person is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election in that precinct. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption. This subdivision does not disqualify a person from serving as a precinct election officer if the candidate to whom the person is related is an unopposed candidate. **For purposes of this subdivision, an "unopposed candidate" includes an individual whose nomination to an office at a**

primary election is unopposed by any other candidate within the same political party.

(5) The person did not attend training required by section 40 of this chapter.

(b) In addition to the requirements of subsection (a), a person is not eligible to serve as an inspector if the person is the chairman or treasurer of the committee of a candidate whose name appears on the ballot.

SECTION 10. IC 3-6-6-13, AS AMENDED BY P.L.209-2003, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A county election board shall fill a vacancy in a precinct election office before the hour set for the opening of the polls, upon the nomination of the appropriate county chairman.

(b) This subsection applies to a precinct election office when, at noon, fourteen (14) days before election day, the appropriate county chairman has made no nomination for the office. The county election board, by ~~unanimous majority~~ vote of the ~~entire membership of the~~ board, may fill the office by appointing an individual who would be eligible to serve in the office if nominated by the county chairman.

(c) If a vacancy is filled by the county election board under subsection (b), the board may, by unanimous vote of the entire membership of the board, fill the office by appointing a student:

- (1) enrolled at an institution of higher education (including a community college); and
- (2) who is a registered voter of the county;

to serve as a nonpartisan precinct election officer.

SECTION 11. IC 3-6-6-23, AS AMENDED BY P.L.126-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. The oath prescribed for a precinct election officer must be signed before a person authorized to administer oaths and contain the following information:

I do solemnly swear (or affirm) the following:

- (1) I will support the Constitution of the United States and the Constitution of the State of Indiana.
- (2) I will faithfully and impartially discharge the duties of inspector (or judge, poll clerk, assistant poll clerk, or sheriff) of this precinct under the law.
- (3) I will not knowingly permit any person to vote who is not

qualified and will not knowingly refuse the vote of any qualified voter or cause any delay to any person offering to vote other than is necessary to procure satisfactory information of the qualification of that person as a voter.

(4) I am now a bona fide resident of the county in which the precinct in which I am to act as a member of the election board is situated and, if required by law, am a qualified voter of that county.

(5) I will not disclose or communicate to any person how any voter has voted at this election or how any ballot has been folded or marked.

(6) I am able to read, write, and speak the English language.

(7) I have no property bet or wagered on the result of this election.

(8) I am not a candidate to be voted for at this election **in this precinct**, except as an unopposed candidate for a political party office.

(9) If I am serving as an inspector, I am not the chairman or treasurer of the committee of a candidate whose name appears on the ballot.

(10) I am not related to any person to be voted for at this election **in this precinct** as the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of that person, unless that person is an unopposed candidate.

(11) I was trained as required by IC 3-6-6-40.

SECTION 12. IC 3-6-6-38, AS ADDED BY P.L.126-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) As used in this section, "omitted precinct election officer" refers to a precinct election officer that a precinct is not required to have by a resolution adopted under this section.

(b) Notwithstanding other provisions of this title, a county election board may adopt a resolution to provide that specified precincts or all precincts of the county are not required to have any or all of the following precinct election officers:

(1) ~~Sheriff.~~ **Sheriffs.**

(2) Poll clerks.

(c) A resolution adopted under this section must be adopted by unanimous vote of the entire membership of the board.

(d) A resolution adopted under this section must state the following:

- (1) The precincts to which the resolution applies.
- (2) For each precinct identified in the resolution, which precinct election officers are omitted precinct election officers.
- (3) For each precinct identified in the resolution, which precinct election officers will perform the duties required by this title of the omitted precinct election officers.

(e) Notwithstanding any other law, the precinct election officer specified in a resolution adopted under this section shall perform the duties of the omitted precinct election officers as stated in the resolution.

(f) A resolution adopted under this section expires December 31 after the resolution is adopted.

SECTION 13. IC 3-6-6-40, AS ADDED BY P.L.66-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 40. ~~(a) This section applies after December 31, 2003.~~

~~(b)~~ **(a)** The county election board shall conduct a training and educational meeting for precinct election officers.

~~(c)~~ **(b)** The board shall require inspectors ~~and judges~~ to attend the meeting and may require other precinct election officers to attend the meeting.

~~(d)~~ **(c)** The meeting required under this section must include information:

- (1) relating to making polling places and voting systems accessible to elderly voters and disabled voters; and
- (2) relating to the voting systems used in the county.

The meeting may include other information relating to the duties of precinct election officers as determined by the county election board.

~~(e)~~ **(d)** The meeting required by this section must be held not later than the day before election day.

(e) If an individual:

- (1) is appointed as a precinct election officer after the training and educational meeting conducted under this section; or**
- (2) demonstrates to the county election board that the individual was unable to attend the meeting due to good**

cause;

the county election board may authorize the individual to serve as a precinct election officer if the county election board determines that there is insufficient time to conduct the training required by this section.

SECTION 14. IC 3-6-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If:

(1) twenty-six percent (26%) or more of all candidates of a political party who are candidates for:

(A) nomination to elected offices at a county **primary election** (or municipal primary election **within the municipality in which the municipal primary is to be conducted**), not including candidates for delegates to the state convention or candidates for precinct committeemen; or

(B) precinct committeemen at an election for precinct committeemen, whose names are certified to the county election board as candidates to be voted for at the primary election for precinct committeemen; or

(2) any candidate or group of candidates for a school board office; desire to have watchers at the polls in any precinct of the county or municipality, they shall sign a written statement indicating their desire to name watchers.

(b) If the candidates signing the statement are candidates for nomination at a county primary election or for election as precinct committeemen or to a school board office, the written statement shall be filed with the circuit court clerk of the county where the candidates reside.

(c) If the candidates signing the statement are candidates for nomination at a municipal primary election, the written statement shall be filed with the circuit court clerk of the county that contains the greatest percentage of the population of the election district.

SECTION 15. IC 3-6-9-13 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. A watcher appointed under this chapter is entitled to do the following:**

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.

(2) Inspect the paper ballot boxes, voting machines, ballot card voting system, or electronic voting system before votes have been cast.

(3) Inspect the work being done by any precinct election officer.

(4) Enter, leave, and reenter the polls at any time on election day.

(5) Witness the calling and recording of the votes, the reading of the totals from the voting machines, and any other proceedings of the precinct election officers in the performance of official duties.

(6) Receive a summary of the vote prepared under IC 3-12-2-15, IC 3-12-2.5-4, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing:

(A) the names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate, if the watcher is appointed under section 1(a)(1) of this chapter; or

(B) the names of all candidates at a school board election and the number of votes cast for each candidate if the watcher is appointed under section 1(a)(2) of this chapter.

(7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.

(8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.

(9) Call upon the election sheriffs to make arrests.

SECTION 16. IC 3-6-10-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. A watcher appointed under this chapter is entitled to do the following:

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.

(2) Inspect the paper ballot boxes, voting machines, ballot card voting system, or electronic voting system before votes have been cast.

- (3) Inspect the work being done by any precinct election officer.
- (4) Enter, leave, and reenter the polls at any time on election day.
- (5) Witness the calling and recording of the votes, the reading of the totals from the voting machines, and any other proceedings of the precinct election officers in the performance of official duties.
- (6) Receive a summary of the vote prepared under IC 3-12-2-15, IC 3-12-2.5-4, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board providing the names of all candidates and the number of votes cast for each candidate and the votes cast for or against a public question.
- (7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.
- (8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.

SECTION 17. IC 3-7-12-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) The circuit court clerk or board of registration members shall, following the cancellation of voter registrations as provided by the voter list maintenance program under this article, file an affidavit under affirmation with the ~~county auditor~~ **election division**.

(b) The affidavit must be on a form prescribed by the commission and must state that the clerk or board has:

- (1) conducted the voter list maintenance program under this article; and
- (2) canceled the registrations required under the voter list maintenance program.

SECTION 18. IC 3-7-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) Except as provided in subsection (b),** the definitions in IC 9-13-2 apply to this chapter.

(b) A reference to the "commission" in this chapter is a reference to the Indiana election commission unless otherwise

stated.

SECTION 19. IC 3-7-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. As provided in 42 U.S.C. 1973gg-3(c)(1), the **bureau of motor vehicles** commission shall include a voter registration application form as a part of the application for a driver's license prescribed under IC 9-24.

SECTION 20. IC 3-7-14-9, AS AMENDED BY HEA 1360-2004, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a)** An employee of the **bureau of motor vehicles** commission who provides an individual with a driver's license or identification card application shall do the following:

(1) Inform each individual who applies for a driver's license or an identification card that the information the individual provides on the individual's application will be used to register the individual to vote unless:

(A) the individual is not eligible to vote;

(B) the individual declines to register to vote or fails to complete the voter registration part of the application; or

(C) the individual answers "no" to either question described by IC 3-7-22-5(3) or IC 3-7-22-5(4).

(2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application if requested to do so by the individual.

(3) Check the completed voter registration form for legibility and completeness.

(4) Deliver the completed registration form to the license branch manager (or the employee designated by the manager to be responsible for voter registration services) for transmittal to the appropriate circuit court clerk or board of registration.

(5) Inform the individual that the individual will receive a mailing from the county voter registration office of the county where the individual resides concerning the disposition of the voter registration application.

(6) Inform each individual who submits a change of address for a driver's license or identification card that the information serves as notice of a change of address for voter registration unless the applicant states in writing on the form that the change of address is not for voter registration purposes.

(b) The bureau of motor vehicles commission shall transmit a voter registration form completed after December 31, 2005, to the election division for transmittal to the appropriate county voter registration office in accordance with IC 3-7-26.3.

SECTION 21. IC 3-7-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If an individual is registering to vote after the twenty-ninth day before the date that a primary, general, municipal, or special election is scheduled in the precinct where the voter resides, the employee of the **bureau of motor vehicles** commission who provides an individual with a driver's license or an identification card application shall do the following:

- (1) Inform the individual that license branch registration will not permit the individual to vote in the next election.
- (2) Inform the individual of other procedures the individual may follow to vote in the next election.

SECTION 22. IC 3-7-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. Whenever an applicant completes a voter registration application under section 4 of this chapter, the **bureau of motor vehicles** commission shall provide the applicant with a written acknowledgment that the applicant has completed a voter registration application at a license branch. The acknowledgment:

- (1) may be:

(A) a detachable part; or

(B) after December 31, 2005, an electronic version;

of the registration form prescribed under section 4 of this chapter; and

- (2) must set forth the name and residential address of the applicant and the date that the application was completed.

SECTION 23. IC 3-7-14-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) An applicant who completes a voter registration application under section 4 of this chapter is not required to submit the application to a ~~circuit court clerk or board of county voter registration member~~ **office**.

(b) The **bureau of motor vehicles** commission shall forward the voter registration part of the application to a ~~circuit court clerk or board of county voter registration office~~ not later than five (5) days after the date of acceptance and as provided in IC 9-24-2.5 and 42 U.S.C.

1973gg-3(c)(2)(E). This subsection expires January 1, 2006.

(c) This subsection applies after December 31, 2005. The bureau of motor vehicles commission shall forward the voter registration part of the application to the election division for transmittal to the appropriate county voter registration office on an expedited basis in accordance with IC 3-7-26.3, IC 9-24-2.5 and 42 U.S.C. 1973gg-3(c)(2)(E).

SECTION 24. IC 3-7-14-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. Voter registration information received or maintained by the **bureau of motor vehicles** commission under this chapter is confidential and may be used only for voter registration purposes as provided in this article, 42 U.S.C. 1973gg-3(b), and 42 U.S.C. 1973gg-6(a)(6).

SECTION 25. IC 3-7-14-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. Except as provided in section 15 of this chapter, an application under section 4 of this chapter authorizes a ~~circuit court clerk or board of county voter registration office~~ to update the voter registration record of the applicant:

(1) under 42 U.S.C. 1973gg-3(a)(2) unless the applicant fails to sign the voter registration application; **or**

(2) after December 31, 2005, in a manner authorized under IC 3-7-26.3.

SECTION 26. IC 3-7-14-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. As provided in 42 U.S.C. 1973gg-3(d), a circuit court clerk or board of registration may update the address in the voter registration of an applicant, unless the applicant indicates on an application to obtain or renew a motor vehicle driver's license (or any other change of address form submitted to the clerk or board by the **bureau of motor vehicles** commission) that the change of address of the applicant is not for voter registration purposes.

SECTION 27. IC 3-7-26-2, AS AMENDED BY P.L.209-2003, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The election division shall develop and maintain a statewide voter registration file.

(b) Subject to section 20 of this chapter, not later than January 1, 2004, the election division shall maintain the statewide voter

registration file so that the file is accessible by the election division and county voter registration offices through a secure connection over the Internet.

(c) ~~(b)~~ The statewide voter registration file must comply with the standards and requirements described in 42 U.S.C. 15483.

SECTION 28. IC 3-7-26-8, AS AMENDED BY P.L.209-2003, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Until a county has the capability to transmit the information over the Internet as required under subsection (b), the information required by section 7 of this chapter shall be provided on magnetic media or other machine readable form to the election division.

(b) ~~Subject to section 20 of this chapter, not later than January 1, 2004, After a county has the capability to transmit information in accordance with subsection (a),~~ a county voter registration office shall transmit the information required by section 7 of this chapter to the election division over the Internet, in a manner and using a method prescribed by the election division, through a secure connection. ~~to the statewide voter registration file.~~

(c) The commission shall prescribe a format to ensure the standardization and readability of the data provided under subsection (a) or (b).

SECTION 29. IC 3-7-26.3-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 22. The computerized list must contain at least the following information for each voter:**

- (1) The voter's voting history for at least the previous ten (10) years, if available, including the political party ballot requested by the voter at any primary election during the period.**
- (2) The source of the voter's registration application.**
- (3) A listing of all previous addresses at which the voter was registered to vote during at least the previous ten (10) years, if available.**
- (4) Information concerning the documentation submitted by the voter to comply with the requirements of HAVA.**
- (5) Documentation of all changes to the registration made by the voter.**

(6) Documentation concerning all notices sent to the voter by the county voter registration office.

SECTION 30. IC 3-7-26.3-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 23. The computerized list must include absentee ballot management features that do the following:**

(1) Manage absentee ballots based on the type, eligibility, and status of the absentee voter.

(2) Permit the printing of absentee labels by group or date, or by individual for use by a voter voting in person at the county election board office.

(3) Permit the documentation of the date on which each absentee ballot is issued and returned.

(4) Permit the printing of absentee ballot applications with voter registration information for the absentee ballot applicant.

SECTION 31. IC 3-7-26.3-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 24. The computerized list must permit a circuit court clerk to transmit reports or statements to the election division under IC 3-6-5, this article, or IC 3-12-5.**

SECTION 32. IC 3-7-26.3-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25. The computerized list must include election and poll worker management features such as whether poll workers served only part of an election day.**

SECTION 33. IC 3-7-26.3-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26. The computerized list must provide fully synchronized backup and recovery with a well defined disaster recovery plan.**

SECTION 34. IC 3-7-26.3-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 27. The computerized list must include signature digitizing features that have the ability to accept and maintain a scanned image of the voter's signature.**

SECTION 35. IC 3-7-26.3-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2004]: **Sec. 28. The computerized list must include street file management features that do the following:**

- (1) Include an integral street file with automatic assignment to election districts and jurisdictions based on residence address location.**
- (2) Permit changing street names throughout a county or for specific areas within a county.**
- (3) Permit interfacing with geographic information systems.**
- (4) Permit comprehensive changes to reflect changes in legislative district or precinct boundary lines.**
- (5) Permit the accommodation of multiple place names within a single ZIP code area.**
- (6) Permit the tracking and management of data concerning polling place locations.**

SECTION 36. IC 3-7-26.3-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 29. The computerized list must include voter registration management features that do the following:**

- (1) Automatically assign voter identification numbers in accordance with this title.**
- (2) Calculate the number of registered voters by precinct or any election district.**
- (3) Permit expedited web based inquiries concerning polling place locations.**
- (4) Track and report all voter list maintenance transactions performed within the system.**
- (5) Permit tracking regarding the political party ballot requested by voters voting in a primary.**
- (6) Generate a variety of reports on paper, compact disc, or floppy disc format, such as walking lists, call lists, lists of voters by precinct, lists of voters by name, date of birth, or date of registration, and lists of voters by other household data.**
- (7) Identify voters who are currently less than eighteen (18) years of age.**
- (8) Permit electronic processing of voter registration information received as files from other state and federal agencies.**

(9) Provide flexible query functions for management and statistical reports, including the ability of the secretary of state or a co-director of the election division to view individual voter registration records.

(10) Contain full audit controls and management reports to track and manage the work of county voter registration office employees, including the ability of the secretary of state or the co-directors of the election division to determine whether a county voter registration office is performing voter list maintenance functions in the manner required by IC 3-7.

SECTION 37. IC 3-7-26.3-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 30. The computerized list must include a help desk support feature, staffed by individuals who can provide assistance to county voter registration offices regarding the proper operation of the system.**

SECTION 38. IC 3-7-26.3-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 31. The computerized list must include features permitting the secretary of state or a co-director of the election division to include other features determined by the secretary of state and the co-directors of the election division.**

SECTION 39. IC 3-7-26.3-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 32. (a) This section applies to a county with a county voter registration office described in IC 3-5-2-16.2(1) or IC 3-5-2-16.2(2).**

(b) The computerized list must permit a county election board to view data concerning voters of the county in order to do the following:

(1) Administer absentee balloting.

(2) Determine whether an individual who wishes to file as a candidate is a voter of the county.

SECTION 40. IC 3-7-27-20, AS AMENDED BY P.L.209-2003, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20. (a) This section applies to a county that maintains voter registration information in a computerized system.**

(b) The county voter registration office shall prepare an entry in the

computerized system that accurately reflects the information set forth in the original affidavit of registration and, if the applicant was required to provide documentation under IC 3-7-33-4.5, whether the required documentation has been provided.

(c) If the documentation required under IC 3-7-33-4.5 has been provided, the entry must include the following:

(1) The date the documentation was filed with the county voter registration office.

(2) Whether the documentation was filed with the county voter registration office:

(A) **in the form of summary information on a poll list documented in accordance with IC 3-11-8-25** by a precinct election board after the person voted in person at the polling place;

(B) by the county election board after the person applied to cast an absentee ballot; or

(C) by the applicant as part of the original filing of the application to register to vote, or in a subsequent filing received by the county voter registration office.

(3) A brief description of the type of documentation provided **or an optically scanned image of the document**. The election division shall provide each county voter registration office with a suggested coding system for identifying the types of documentation.

(d) However, the county voter registration office is only required to enter a voter's voting history for the previous ten (10) years if that history is available.

(e) The county voter registration office is not required to prepare a duplicate paper copy of a registration properly entered into the computerized system.

(f) The computerized system must be able to generate lists of voters organized alphabetically and by precinct of residence.

(g) This section expires January 1, 2006.

SECTION 41. IC 3-7-27-20.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 20.2. (a) This section applies after December 31, 2005.**

(b) The county voter registration office shall prepare an entry

in the computerized system indicating:

- (1) whether the applicant was required to provide documentation under IC 3-7-33-4.5; and
- (2) if so, whether the required documentation has been provided.

(c) If the documentation required under IC 3-7-33-4.5 has been provided, the entry must include the following:

- (1) The date the documentation was filed with the county voter registration office.
- (2) Whether the documentation was filed with the county voter registration office by:
 - (A) a precinct election board after the person voted in person at the polling place;
 - (B) the county election board after the person applied to cast an absentee ballot; or
 - (C) the applicant as part of the original filing of the application to register to vote, or in a subsequent filing received by the county voter registration office.

(3) A brief description of the type of documentation provided.

The election division shall provide each county voter registration office with a suggested coding system for identifying the types of documentation.

SECTION 42. IC 3-7-30-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As provided in 42 U.S.C. 1973gg-3(c), the fact that an applicant declined to register at a license branch ~~or~~ at a voter registration agency ~~or by mail~~ is confidential.

SECTION 43. IC 3-7-32-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A registration application must be signed:

- (1) in indelible ink or indelible pencil; or
- (2) after December 31, 2005, with an electronic signature in a manner authorized under IC 3-7-26.3 if submitted to a license branch under IC 3-7-14.

SECTION 44. IC 3-7-32-4, AS AMENDED BY P.L.126-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. A voter may not submit a registration application by electronic transmission except as provided in IC 3-11-4

or, after December 31, 2005, IC 3-7-26.3.

SECTION 45. IC 3-7-33-4, AS AMENDED BY P.L.209-2003, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to a voter registration application submitted on a registration by mail form under IC 3-7-22.

(b) Except as provided in subsection (c), and as provided in 42 U.S.C. 1973gg-6(a)(1), an eligible applicant whose application is postmarked not later than twenty-nine (29) days before the election shall be registered to vote in the election.

(c) If a postmark on a registration by mail form is missing or illegible, an eligible applicant shall be registered to vote in the election if the form is received by the county voter registration office not later than ~~twenty-four (24) days~~ **the Monday following the close of the registration period** before the election.

SECTION 46. IC 3-7-33-4.5, AS ADDED BY P.L.209-2003, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. ~~(a) This section applies after December 31, 2003.~~

~~(b)~~ **(a)** Except as provided in subsection ~~(c)~~; **(b)**, this section applies to an individual who:

- (1) submits an application to register to vote by mail under IC 3-7-22; and
- (2) has not previously voted in:
 - (A) a general election in Indiana (or a special election for federal office in Indiana); or
 - (B) a general election (or a special election for federal office) in the county where the individual has submitted an application under this chapter if a statewide voter registration system is not operational in accordance with the requirements of IC 3-7-26 and 42 U.S.C. 15483 on the date the application is received by the county voter registration office.

~~(c)~~ **(b)** This section does not apply to an individual who complies with the requirements in any of the following:

- (1) The individual submits an application to register to vote by mail under this chapter and includes with that mailing a copy of:
 - (A) a current and valid photo identification; or
 - (B) a current utility bill, bank statement, government check,

paycheck, or government document;
that shows the name and **residence** address of the voter **stated on the voter registration application.**

(2) The individual submits an application to register to vote by mail under this chapter that includes the individual's:

(A) Indiana driver's license number; or

(B) last four (4) digits of the individual's Social Security number;

and the county voter registration office or election division matches the information submitted by the applicant with an existing Indiana identification record bearing the same number, name, and date of birth set forth in the voter registration application.

(3) The individual is an absent uniformed services voter or overseas voter.

(4) The individual is entitled to vote other than in person under the federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)) due to a determination by the election division that a permanent or temporarily accessible polling place cannot be provided for the individual.

(5) The individual is entitled to vote other than in person under any other federal law.

~~(d)~~ **(c)** When a county voter registration office receives a voter registration application by mail, the office shall determine whether the applicant is subject to the requirements to provide additional documentation under this section and 42 U.S.C. 15483.

~~(e)~~ **(d)** As required by 42 U.S.C. 15483, a county voter registration office shall administer the requirements of this section in a uniform and nondiscriminatory manner.

~~(f)~~ **(e)** If the county voter registration office determines that the applicant:

(1) is not required to submit additional documentation under this section; or

(2) has provided the documentation required under this section; the county voter registration office shall process the application in accordance with section 5 of this chapter.

~~(g)~~ **(f)** If the county voter registration office determines that the applicant is required to submit additional documentation under this

section and 42 U.S.C. 15483, the office shall process the application under section 5 of this chapter and, if the applicant is otherwise eligible to vote, add the information concerning this documentation to the voter's computerized registration entry under IC 3-7-27-20(c).

~~(h)~~ (g) The county voter registration office shall remove the notation described in subsection ~~(g)~~ (f) after the voter votes in an election for a federal office.

SECTION 47. IC 3-7-36-14, AS ADDED BY P.L.126-2002, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) This section applies to a person described in subsection (b) who applies to register to vote during the period:

- (1) beginning on the date that the certified list of voters is prepared under IC 3-7-29-1; and
- (2) ending at noon election day.

(b) An absent uniformed services voter who is absent from Indiana during the registration period described in IC 3-7-13-10 and who otherwise would be entitled to register to vote under Indiana law may, upon returning to Indiana during the period described in subsection (a) following discharge from service or reassignment, register to vote by doing the following:

- (1) Showing either of the following to the ~~circuit court clerk~~:
county voter registration office:

(A) A discharge from service, dated not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:

- (i) the voter;
- (ii) the voter's spouse; or
- (iii) the individual of whom the voter is a dependent.

(B) A copy of the government movement orders, with a reporting date not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:

- (i) the voter;
- (ii) the voter's spouse; or
- (iii) the individual of whom the voter is a dependent.

- (2) Completing a registration affidavit.

(c) A voter who registers under this section may vote at the upcoming election only by absentee ballot at the office of the circuit

court clerk at the time the voter registers under this section or at any time after the voter registers under this section and before noon on election day. A voter who wants to vote under this subsection must do both of the following:

- (1) Complete an application for an absentee ballot.
- (2) Sign an affidavit that the voter has not voted at any other precinct in the election.

The voter may vote at subsequent elections as otherwise provided in this title.

(d) If the voter votes by absentee ballot under this section, the circuit court clerk shall do the following:

- (1) Certify in writing that the voter registered under this section.
- (2) Attach the certification to the voter's absentee ballot envelope.

(e) If the county has a board of registration, **the board of registration shall promptly deliver the voter's registration affidavit to the circuit court clerk ~~shall promptly mail or deliver the voter's registration affidavit to the board of registration.~~ permit the voter to vote under subsection (c).**

(f) If the voter chooses not to vote under subsection (c), ~~the clerk or board~~ **county voter registration office** shall register the voter on the first day of the next registration period.

SECTION 48. IC 3-7-38.1-7, AS AMENDED BY P.L.38-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A county voter registration office shall cancel the registration of a voter who is described by both of the following:

- (1) The voter is described in section 4(a)(5)(C) of this chapter.
- (2) The voter has not voted (or appeared to vote or to correct the registration record stating the voter's address) in an election during the period:
 - (A) beginning on the date of the notice sent under section 4(a)(3) of this chapter; and
 - (B) ending on the day after the date of the second general election that occurs after the date of the notice sent under section 4(a)(3) of this chapter.

(b) If an individual appears to vote after the individual's registration is placed on inactive status under section 5 of this chapter, the individual must affirm under IC 3-10-1 or IC 3-11-8

before the individual is permitted to vote that the individual currently resides at the address shown on the individual's registration.

(c) At the expiration of the period ending thirty (30) days after the second general election described in subsection (a)(2)(B), the county voter registration office shall cancel the registration of a voter described by this section.

SECTION 49. IC 3-7-38.2-2, AS AMENDED BY P.L.209-2003, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter list maintenance program conducted under this chapter or before January 1, 2006, IC 3-7-38.1 must be:

- (1) uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973);
- (2) not result in the removal of the name of a person from the official list of votes solely due to the person's failure to vote; and
- (3) completed not later than ninety (90) days before a primary, general, or municipal election.

(b) A county voter registration office may conduct a voter list maintenance program that complies with subsection (a). In conducting a voter list maintenance program, the county voter registration office shall mail a notice described in subsection (d) to each registered voter at the residence address:

- (1) listed in the voter's registration record; and
- (2) determined by the county voter registration office not to be the voter's current residence address.

(c) A county voter registration office may use information only from the following sources to make the determination under subsection (b)(2):

- (1) The United States Postal Service National Change of Address Service.
- (2) A court regarding jury duty notices.
- (3) The return of a mailing sent by the county voter registration office to all voters in the county.
- (4) The bureau of motor vehicles concerning the surrender of a voter's Indiana license for the operation of a motor vehicle to another jurisdiction.

(d) The notice described in subsection (b) must:

(1) be sent by first class United States mail, postage prepaid, by a method that requires the notice to be forwarded to the voter; and

(2) include a postage prepaid return card that:

(A) is addressed to the county voter registration office;

(B) states a date by which the card must be returned or the voter's registration will become inactive until the information is provided to the county voter registration office; and

(C) permits the voter to provide the voter's current residence address.

(e) If a voter returns the card described in subsection (d)(2) and provides a current residence address that establishes that the voter resides:

(1) in the county, the county voter registration office shall update the voter's registration record; or

(2) outside the county, the county voter registration office shall cancel the voter's registration.

(f) If a voter does not return the card described in subsection (d)(2) by the date specified in subsection (d)(2)(B), the county voter registration office shall indicate in the voter's registration record that the voter's registration is inactive.

(g) A voter's registration that becomes inactive under subsection (f) remains in inactive status from the date described in subsection (d)(2)(B) until the earlier of the following:

(1) The date the county voter registration office updates or cancels the voter's registration under subsection (e) after the voter provides a current residence address.

(2) The day after the second general election in which the voter has not voted or appeared to vote.

(h) After the date described in subsection (g)(2), the county voter registration office shall remove the voter's registration from the voter registration records.

SECTION 50. IC 3-7-38.2-13, AS AMENDED BY P.L.38-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. After the county voter registration office has determined under this chapter that a voter's residence may have changed, the election division shall send a notice to the voter that sets forth substantially the following statements as provided in 42 U.S.C.

1973gg-6(d)(2):

(1) If the voter did not change the voter's residence or changed the residence but remained in the same county where the voter was listed on the voter registration record, the voter must return the card enclosed with the notice in person to the county voter registration office not later than twenty-nine (29) days before the election or by regular United States mail:

(A) with a postmark not later than twenty-nine (29) days before the election; or

(B) if a postmark is missing or illegible, to the county voter registration office not later than twenty-one (21) days before the election.

(2) If the card is not returned under subdivision (1), the voter ~~may~~ **be required to must** affirm or confirm the voter's address before the voter is permitted to vote in an election during the period:

(A) beginning on the date of the notice; and

(B) ending on the day after the date of the second general election scheduled to occur after the date of the notice.

(3) If the voter does not vote in an election described in subdivision (2), the voter's name will be removed from the voter registration list.

(4) If the voter changed residence to a place outside the county in which the voter is included on the voter registration list, information concerning how the voter can continue to be eligible to vote in the county where the voter currently resides.

SECTION 51. IC 3-7-48-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. **(a)** A voter shall be permitted to vote in a precinct upon written affirmation of the voter's residence in the precinct if:

(1) the voter produces a registration receipt indicating that the voter completed a registration form at a license branch or voter registration agency under this article on a date within the registration period; ~~and~~

(2) the county voter registration office advises the precinct election board that the office:

(A) approved the application; or

(B) has no record of either approving or rejecting the application; **and**

(3) the voter completes a registration application form and provides the completed form to the precinct election board before voting.

(b) A county election board shall provide each precinct election board with a sufficient number of the registration forms for the purposes described in subsection (a). The precinct election board shall attach the completed registration forms to the poll list for processing by the county voter registration office under IC 3-10-1-31.

SECTION 52. IC 3-8-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) A candidate for an office listed in subsection (b) must file a statement of economic interests.

(b) Whenever a candidate for any of the following offices is also required to file a declaration of candidacy or is nominated by petition, the candidate shall file a statement of economic interests before filing the declaration of candidacy or declaration of intent to be a write-in candidate, before the petition of nomination is filed, before the certificate of nomination is filed, or before being appointed to fill a candidate vacancy under IC 3-13-1 or IC 3-13-2:

(1) Governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction, in accordance with IC 4-2-6-8.

(2) Senator and representative in the general assembly, in accordance with IC 2-2.1-3-2.

(3) Justice of the supreme court, ~~clerk of the supreme court~~, judge of the court of appeals, judge of the tax court, judge of a circuit court, judge of a superior court, judge of a county court, judge of a probate court, and prosecuting attorney, in accordance with ~~IC 33-2.1-8-6~~ **IC 33-23-11-14** and ~~IC 33-2.1-8-7~~ **IC 33-23-11-15**.

SECTION 53. IC 3-8-2-2.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.7. (a) A candidate may withdraw a declaration of intent to be a write-in candidate not later than noon ~~of the final date to file a declaration of intent to be a write-in candidate under section 4 of this chapter.~~ **July 15 before a general or municipal election.**

(b) This subsection applies to a candidate who filed a declaration of intent to be a write-in candidate with the election division. The election

division shall issue a corrected certification of write-in candidates under IC 3-8-7-30 as soon as practicable after a declaration is withdrawn under this section.

SECTION 54. IC 3-8-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A declaration of candidacy for a primary election must be filed no later than noon seventy-four (74) days and no earlier than one hundred four (104) days before the primary election. The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(b) A declaration of intent to be a write-in candidate must be filed not later than noon ~~five (5) days before the final date for the delivery of absentee ballots under IC 3-11-4-15~~ and ~~not earlier than ninety (90) days before a general election.~~ **on the date specified by IC 3-13-1-15(c) for a major political party to file a certificate of candidate selection.** The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(c) During a year in which a federal decennial census, federal special census, special tabulation, or corrected population count becomes effective under IC 1-1-3.5, a declaration of:

(1) candidacy may be filed for an office that will appear on the primary election ballot; or

(2) intent to be a write-in candidate for an office that will appear on the general, municipal, or school board election ballot;

that year as a result of the new tabulation of population or corrected population count.

SECTION 55. IC 3-8-2-14, AS AMENDED BY P.L.58-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) All questions concerning the validity of a declaration filed with the secretary of state shall be referred to and determined by the commission in accordance with section 18 of this chapter. A statement questioning the validity of a declaration must be filed with the election division under IC 3-8-1-2(c) not later than noon sixty-seven (67) days before the date of the primary election.

(b) All questions concerning the validity of a declaration of candidacy filed with a circuit court clerk shall be referred to and determined by the county election board not later than noon fifty-four (54) days before the date of the primary election. A statement questioning the validity of a declaration must be filed with the county

election board under IC 3-8-1-2(c) not later than noon sixty-seven (67) days before the date of the primary election.

(c) A question concerning the validity of a declaration of intent to be a write-in candidate shall be determined by the commission or the county election board not later than noon ~~seven (7) days~~ **sixty-seven (67) days** before election day. A statement questioning the validity of a declaration of intent to be a write-in candidate must be filed with the election division or county election board under IC 3-8-1-2(c) not later than noon ~~fourteen (14) days~~ **seventy-four (74) days** before election day.

SECTION 56. IC 3-8-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A political party shall conduct a state convention to nominate the candidates of the political party for the following offices to be voted on at the next general election:

- (1) Lieutenant governor.
 - (2) Secretary of state.
 - (3) Auditor of state.
 - (4) Treasurer of state.
 - (5) Attorney general.
 - (6) Superintendent of public instruction.
 - ~~(7) Clerk of the supreme court.~~
- (b) The convention shall also:
- (1) nominate candidates for presidential electors and alternate electors; and
 - (2) elect the delegates and alternate delegates to the national convention of the political party.

SECTION 57. IC 3-8-5-2, AS AMENDED BY P.L.167-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A candidate for a town office may be nominated using any of the following methods:

- (1) By convention conducted under this chapter.
 - (2) By a primary election.
 - (3) By petition filed under IC 3-8-6.
 - (4) If a town convention or a primary election is not required under section 10 of this chapter for the political party of which the candidate is a member, by the candidate's declaration of candidacy.
- (b) Unless a town legislative body adopts an ordinance under subsection (c), a town shall use the convention method described in

this chapter to nominate candidates for town offices.

(c) The town legislative body of a town covered by this chapter may adopt an ordinance to specify any other method described in subsection (a) to nominate candidates for town offices.

(d) The town legislative body must adopt an ordinance under subsection (c) not later than January 1 of the year in which a municipal election is held. The town clerk-treasurer shall send a copy of the ordinance to the circuit court clerk of the county that contains the greatest percentage of the town's population.

(e) If a town **described by section 1 of this chapter** adopts an ordinance under subsection (c) to nominate candidates by a primary election, the following apply:

- (1) The county election board of the county that contains the greatest percentage of the town's population shall conduct the primary election for the town.
- (2) All statutes governing primary elections for towns apply.
- (3) The town may not change the method of nominating candidates for town offices more than one (1) time in any twelve (12) year period.

SECTION 58. IC 3-8-5-10.5, AS AMENDED BY P.L.167-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) A person who desires to be nominated for a town office by a major political party must file a declaration of candidacy with the circuit court clerk of the county containing the greatest percentage of population of the town.

(b) A declaration of candidacy must be filed:

- (1) not earlier than January 1; and
- (2) not later than:
 - (A) noon August 1 before a municipal election if the town nominates its candidates by convention; and
 - (B) the date that a declaration of candidacy must be filed under IC 3-8-2-4 if the town nominates its candidates by a primary election.

(c) The declaration must be subscribed and sworn to (or affirmed) before a notary public or other person authorized to administer oaths.

(d) The declaration of each candidate required by this section must certify the following information:

- (1) The candidate's name, printed or typewritten as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) That the candidate is a registered voter and the location of the candidate's precinct and township (or the ward and town), county, and state.

(3) The candidate's complete residence address and the candidate's mailing address if the mailing address is different from the residence address.

(4) The candidate's party affiliation and the office to which the candidate seeks nomination, including the district designation if the candidate is seeking a town legislative body seat.

(5) That the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office.

(6) The candidate's signature.

(e) **This subsection does not apply to a town whose municipal election is to be conducted by a county.** Immediately after the deadline for filing, the circuit court clerk shall do all of the following:

(1) Certify to the town clerk-treasurer and release to the public a list of the candidates of each political party for each office. The list shall indicate any candidates of a political party nominated for an office under this chapter because of the failure of any other candidates of that political party to file a declaration of candidacy for that office.

(2) Post a copy of the list in a prominent place in the circuit court clerk's office.

(3) File a copy of each declaration of candidacy with the town clerk-treasurer.

(f) A person who files a declaration of candidacy for an elected office for which a per diem or salary is provided for by law is disqualified from filing a declaration of candidacy for another office for which a per diem or salary is provided for by law until the original declaration is withdrawn.

(g) A person who files a declaration of candidacy for an elected

office may not file a declaration of candidacy for that office in the same year as a member of a different political party until the original declaration is withdrawn.

(h) A person who files a declaration of candidacy under this section may file a written notice withdrawing the person's declaration of candidacy in the same manner as the original declaration was filed, if the notice of withdrawal is filed not later than:

- (1) noon August 1 before the municipal election if the town nominates its candidates by convention; and
- (2) the date that a declaration of candidacy may be withdrawn under IC 3-8-2-20 if the town nominates its candidates in a primary election.

(i) A declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy.

SECTION 59. IC 3-8-5-13, AS AMENDED BY P.L.202-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) The chairman and secretary of a town convention shall execute a certificate of nomination in writing, setting out the following:

- (1) The name of each nominee as:
 - (A) the nominee wants the nominee's name to appear on the ballot; and
 - (B) the nominee's name is permitted to appear on the ballot under IC 3-5-7.
- (2) The residence address of each nominee.
- (3) The office for which each nominee was nominated.
- (4) That each nominee is legally qualified to hold office.
- (5) ~~The political party device or emblem by which the ticket will be designated on the ballot.~~

(b) Both the chairman and secretary shall acknowledge the certificate before an officer authorized to take acknowledgment of deeds.

(c) The certificate must be filed with the circuit court clerk of the county having the greatest percentage of the population of the town.

(d) The certificate must be filed with the circuit court clerk no later than noon August 28 before the municipal election.

(e) The circuit court clerk shall file a copy of each certificate with the town clerk-treasurer no later than noon September 4.

SECTION 60. IC 3-8-5-14.7, AS AMENDED BY P.L.144-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14.7. (a) All questions regarding the validity of:

- (1) a declaration of candidacy;
- (2) a petition of nomination; **or**
- (3) a certificate of nomination of a candidate by a town convention; ~~or a declaration of intent to be a write-in candidate for election to a town office~~

subject to this chapter shall be **filed under IC 3-8-1-2 not later than noon seven (7) days after the final date for filing a certificate under section 13(d) of this chapter. The question shall be** referred to and determined by the town election board (or by the appropriate county election board if a county election board is conducting the election for the town).

(b) The election board shall rule on the validity of any document described in subsection (a) not later than noon ~~September 11~~ **seven (7) days** following the **deadline for** filing of the document **required by subsection (a).**

(c) **A question regarding the validity of a declaration to be a write-in candidate for election to a town office must be filed under IC 3-8-1-2 not later than the date and time specified by IC 3-8-2-14(c), and shall be determined by the election board not later than the date and time specified by IC 3-8-2-14(c).**

SECTION 61. IC 3-8-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A town clerk-treasurer shall preserve in the clerk-treasurer's office:

- (1) all certificates of nomination and declarations of candidacy filed with the town clerk-treasurer under this chapter; and
- (2) all petitions of nomination filed under IC 3-8-6-10;

for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1** after the municipal election for which the nominations were made.

SECTION 62. IC 3-8-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each candidate nominated by petition under section 2 of this chapter must be seeking an office that serves the entire state or a congressional or legislative district, or the same political subdivision.

(b) For purposes of subsection (a), candidates seeking a fiscal or legislative body seat elected only by the voters of a district within a county or municipality and candidates seeking an office to be voted on by all the voters of the county or municipality are considered to be seeking offices that serve the same political subdivision.

(c) An independent candidate may not include the name of any other candidate on the petition or request to be placed on the ballot as associated with any other candidate, except for the other candidate included on **a an independent** ticket for President and Vice President of the United States or governor and lieutenant governor.

SECTION 63. IC 3-8-6-5, AS AMENDED BY P.L.202-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A petition of nomination must state all of the following:

- (1) The name of each candidate as:
 - (A) the candidate wants the candidate's name to appear on the ballot; and
 - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
- (2) The address of each candidate, including the mailing address, if different from the residence address of the candidate.
- (3) The office that each candidate seeks.
- (4) The information required under IC 3-10-4-5, if the petition nominates candidates for presidential electors.
- (5) That the petitioners desire and are registered and qualified to vote for each candidate.
- (6) Whether the candidate is affiliated with the same political party as any other candidate or group of candidates that has filed or will be filing a petition of nomination with the county voter registration office under section 10 of this chapter. This**

subdivision:**(A) applies after December 31, 2004; and****(B) does not apply to an independent candidate.****(b) A petition of nomination may must:****(1) designate a brief name of the political party that the candidates represent; or****(2) indicate that the candidate is an independent candidate; or together with a simple figure or device by which its lists of candidates may be designated on the ballot.****(3) indicate that the candidates are an independent ticket.****(c) If a political party has previously filed a device with the election division under IC 3-8-7-11, the petition may incorporate that device by reference in the petition. If a political party has not previously filed a device under IC 3-8-7-11, or the petition is for an independent ticket, the petition of nomination may include a device for designating the party or ticket on the ballot.**

SECTION 64. IC 3-8-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) This section applies to a petition of nomination which states that a candidate is affiliated with a political party.

(b) If a candidate claims affiliation with a political party:**(1) described by IC 3-8-4-1;****(2) of a candidate who has previously filed a petition of nomination under ~~IC 3-8-6~~; this chapter; or****(3) whose name would result in voter confusion due to its similarity with the name of a political party described in subdivision (1) or (2);**

a registered voter of the election district may question the validity of the filing in accordance with IC 3-8-1-2.

(c) If the voter affirms under subsection (b) that:**(1) the candidate is not the nominee of the political party described in subsection(b)(1);****(2) the candidate is not affiliated with the political party described in subsection(b)(2); or****(3) the name of the political party set forth in the petition would cause voter confusion under subsection (b)(3);**

the commission or county election board shall determine the validity of the questioned filing under section 14 of this chapter.

~~(c)~~ **(d)** Following the filing of a question under subsection ~~(b)~~ **(b)(3)** and not later than the deadline for resolution of a question concerning a petition under section 14 of this chapter, all candidates named in the petition may file a joint written amendment to the petition to alter the name of the political party or to indicate that the candidates are independent.

~~(d)~~ **(e)** If:

- (1) the commission or county election board determines that the party affiliation stated on the petition is described under subsection (b) **and that the affirmation of the voter under subsection (c) is correct;** and
 - (2) **in the case of a determination under subsection (c)(3),** the candidates do not file an amendment under subsection ~~(c)~~; **(d)**;
- the commission or board shall deny the filing.

SECTION 65. IC 3-8-6-17, AS AMENDED BY P.L.202-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) If:

- (1) a petition of nomination contains the name of at least one (1) candidate who seeks to be placed on the ballot as the candidate of a political party described by section 1 of this chapter; and
 - (2) a candidate listed on the petition ceases to be a candidate after the petition is circulated for signature or filed;
- the candidate may be replaced on the petition in accordance with this section.

(b) This subsection applies to a candidate described in subsection (a) who sought a federal, state, or legislative office **or a local office described by IC 3-8-2-5.** The state chairman of the political party may file a written statement with the election division stating the name of the substitute candidate. The statement must:

- (1) be on a form prescribed by the commission;
- (2) state the following:
 - (A) the name of the individual who ceased to be a candidate;
 - (B) the date and reason the individual ceased to be a candidate; and
 - (C) the name of the individual who will replace the candidate as:
 - (i) the individual wants the individual's name to appear on the ballot; and

- (ii) the individual's name is permitted to appear on the ballot under IC 3-5-7; and
- (3) be accompanied by the following:
 - (A) The replacement candidate's consent to be nominated by the petition and, if other candidates were listed on the petition, the signed consent of those candidates to be the replacement.
 - (B) The former candidate's statement of withdrawal in a form substantially similar to the form prescribed under IC 3-8-7-28 if the individual withdrew as a candidate.

A replacement candidate's consent to the nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to the nomination. If there is a difference between the name on the candidate's consent to the nomination and the name on the candidate's voter registration record, the officer with whom the consent to the nomination is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to the nomination.

(c) This subsection applies to a candidate described in subsection (a) who sought a local office **other than a local office described by IC 3-8-2-5**. The county, city, or town chairman of the political party may file a written statement that conforms with subsection (b) with the election board conducting the election for the local office.

(d) The statement required under subsection (b) or (c) must be filed not later than the final date and time for the certification of presidential and vice presidential nominees under IC 3-10-4-5.

(e) If a petition of nomination is circulated or filed by an independent candidate and that individual ceases to be a candidate, another candidate may not be substituted on the petition of nomination.

SECTION 66. IC 3-8-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in subsection (f), if a political party has filed a statement with the election division (or any of its predecessors) that the device selected by the political party be used to designate the candidates of the political party on the ballot for all elections throughout the state, the device must be used until:

- (1) the device is changed in accordance with party rules; and
- (2) a statement concerning the use of the new device is filed with the election division.

(b) Except as provided in subsection (c), the device may be any appropriate symbol.

(c) A political party or an independent candidate may not use as a device:

- (1) a symbol that has previously been filed by a political party or candidate with the election division (or any of its predecessors);
- (2) the coat of arms or seal of the state or of the United States;
- (3) the national or state flag; or
- (4) any other emblem common to the people.

(d) Not later than noon, August 20, before each election:

- (1) the state chairman of each political party whose candidates are to be certified under this section; or
- (2) an individual filing a petition of nomination for candidates to be certified under this section;

shall file with the election division a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed so that ballots may be prepared using the best possible reproduction of the device.

(e) This subsection applies to a candidate or political party whose name or device is to be printed only on ballots prepared by a county election board. Not later than noon, August 20, the chairman of the political party or the petitioner of nomination shall file a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed with the county election board of each county in which the name of the candidate or party will be placed on the ballot. **The county election board shall provide the camera-ready copy of the device to the town election board of a town located wholly or partially within the county upon request by the town election board.**

(f) If a copy of the device is not filed in accordance with subsection ~~(c)~~ ~~or~~ (d) ~~or~~ (e), or unless a device is designated in accordance with section 26 or 27 of this chapter, the election division, ~~or~~ county election board, **or town election board** is not required to use any device to designate the list of candidates.

SECTION 67. IC 3-8-7-16, AS AMENDED BY SEA 263-2004,

SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) This section does not apply to the certification of nominees under IC 3-10-4-5.

(b) The election division shall certify the following to each county election board not later than noon ~~August 20~~ **seventy-four (74) days** before ~~an~~ **a general** election:

(1) The name and place of residence of each person nominated for election to:

- (A) an office for which the electorate of the whole state may vote;
- (B) the United States House of Representatives;
- (C) a legislative office; or
- (D) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

(2) The name of each:

- (A) justice of the supreme court;
- (B) judge of the court of appeals; and
- (C) judge of the tax court;

who is subject to a retention vote by the electorate and who has filed a statement under IC 33-24-2 or IC 33-25-2 indicating that the justice or judge wishes to have the question of the justice's or judge's retention placed on the ballot.

(c) Subject to compliance with section 11 of this chapter, the election division shall designate the device under which the list of candidates of each political party will be printed and the order in which the political party ticket will be arranged under IC 3-10-4-2 and IC 3-11-2-6.

SECTION 68. IC 3-8-7-24, AS AMENDED BY P.L.38-1999, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. The election division and each circuit court clerk shall preserve all certificates and petitions of nomination filed under this article for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 69. IC 3-8-7-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) Except as provided in subsections (b) and (c), if a nominee certified under this chapter, **IC 3-8-5, IC 3-8-6, or IC 3-10-1** desires to withdraw ~~from the ticket; as the nominee,~~ the nominee must file a notice of withdrawal in

writing with the public official with whom the certificate of nomination was filed by noon:

- (1) July 15 before a general or municipal election; ~~or~~
- (2) **August 1 before a municipal election in a town subject to IC 3-8-5-10;**
- (3) **on the date specified for town convention nominees under IC 3-8-5-14.5;**
- (4) **on the date specified for declared write-in candidates under IC 3-8-2-2.7; or**
- (5) forty-five (45) days before a special election.

(b) A candidate who is disqualified from being a candidate under IC 3-8-1-5 must file a notice of withdrawal immediately upon becoming disqualified. The filing requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection.

(c) A candidate who has moved from the election district the candidate sought to represent must file a notice of withdrawal immediately after changing the candidate's residence. The filing requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection.

SECTION 70. IC 3-8-7-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) Not later than noon ~~of the day before the final date for the delivery of absentee ballots under IC 3-11-4-15;~~ **August 1,** the election division shall certify to each county election board:

- (1) the name of each individual who filed a declaration of intent to be a write-in candidate with the election division; and
- (2) any political party that the individual is affiliated with, or whether the individual is an independent candidate.

(b) This subsection applies to a county that does not use a central location to tally ballot card votes. The circuit court clerk shall provide a copy of the certification under this section to the inspector of each precinct, with instructions concerning the counting of write-in votes for declared write-in candidates.

SECTION 71. IC 3-9-4-14, AS AMENDED BY P.L.176-1999, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The election division and each county election board shall do all of the following:

- (1) Ascertain whether candidates, committees, or other persons

have:

- (A) failed to file statements of organization or reports; or
- (B) filed defective statements of organization or reports.

(2) Give the following notices:

(A) To delinquents to file a statement of organization or a report immediately upon receipt of the notice. A delinquency notice **for a report** must be given not later than thirty (30) days after the date the report was required to be filed. The election division or a county election board may, but is not required to, give delinquency notices at other times.

(B) To persons filing defective reports to make a supplemental statement or report correcting all defects not later than noon five (5) calendar days after receipt of the notice.

(3) Make available for public inspection a list of delinquents and persons who have failed to file the required supplemental statement or report. The election division and each county election board shall post a list of delinquents in a public place at or near the entrance of the commission's or board's respective offices.

(b) The election division shall mail:

- (1) to each candidate required to file a campaign finance report with the election division; and
- (2) twenty-one (21) days before the campaign finance reports are due;

the proper campaign finance report forms and a notice that states the date the campaign finance reports are due. The election division is required to mail notices and forms only to candidates for state offices and legislative offices. A county election board may, but is not required to, implement this subsection for candidates for local offices.

(c) Notwithstanding any notice given to a delinquent under subsection (a) or (b), the delinquent remains liable for a civil penalty in the full amount permitted under this chapter for failing to file a campaign finance report or statement of organization not later than the date and time prescribed under this article.

SECTION 72. IC 3-9-4-16, AS AMENDED BY P.L.66-2003, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty

under this section:

(1) Fails to file with the election division a report in the manner required under IC 3-9-5.

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(12) Fails to designate a contribution as required by IC 3-9-2-5(c).

(13) Violates IC 3-9-3-5.

(14) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10).

for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of any contributions received.
- (2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a

corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of the contributions undesignated.
- (2) One thousand dollars (\$1,000).

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has violated IC 3-9-3-5, the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(j) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

⌘ (k) Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 73. IC 3-9-4-17, AS AMENDED BY P.L.66-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

- (1) Fails to file with a county election board a report in the manner required under IC 3-9-5.
- (2) Fails to file a statement of organization required under IC 3-9-1.
- (3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions in the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Fails to designate a contribution as required by IC 3-9-2-5(c).

(12) Violates IC 3-9-3-5.

(13) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the county election board determines that a person failed to file the report or a statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the county election board may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the county election board determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the board shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report is late, with the afternoon of

the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the county election board determines that a person is subject to a civil penalty under subsection (a), the board may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the board.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the county election board determines that a person is subject to a civil penalty under subsection (a)(5), the board may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the board.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the county election board determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the board shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the board:

- (1) Two (2) times the amount of the contributions undesignated.
- (2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has violated IC 3-9-3-5, the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(13), the board may assess a civil penalty of not more than five hundred

dollars (\$500), plus any investigative costs incurred and documented by the board.

(i) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of this article.

(j) Money in the campaign finance enforcement account does not revert to the county general fund at the end of a county fiscal year.

(k) Proceedings of the county election board under this section are subject to IC 4-21.5.

SECTION 74. IC 3-9-5-9, AS AMENDED BY P.L.199-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Except as provided in subsections (b) and (c), in a year in which a candidate is not a candidate for election to an office to which this article applies or does not seek nomination at a caucus or state convention for election to an office to which this article applies, the treasurer of the candidate's committee shall file only the report required by section 10 of this chapter.

(b) This subsection applies to a candidate who holds one (1) office and is a candidate for a different office (or has filed a statement of organization for an exploratory committee without indicating that the individual is a candidate for a specific office). The treasurer of the candidate's committee for the office the candidate holds shall file the following reports:

(1) If the committee spends, transfers in, or transfers out at least ten thousand dollars (\$10,000) from January 1 until twenty-five (25) days before the primary election, the treasurer shall file a pre-primary report under section 6 of this chapter.

(2) If the committee spends, transfers in, or transfers out at least ten thousand dollars (\$10,000) from twenty-five (25) days before the primary election until twenty-five (25) days before the general election, the treasurer shall file a pre-general election report under section 6 of this chapter.

(3) The report required under section 10 of this chapter.

(c) This subsection applies to a candidate who is required to file a pre-primary report or pre-convention report under section 6 of this

chapter and who:

- (1) is defeated at the primary election or convention; or
- (2) withdraws or is disqualified as a candidate before the general election.

The treasurer of a candidate's committee described by this subsection is not required to file a pre-general election report under section 6 of this chapter but shall file the report required by section 10 of this chapter.

(d) This subsection applies to a candidate for election to a city office or a town office. If a municipal primary is not conducted in the municipality by one (1) or more parties authorized to conduct a primary, the candidate must file a report in accordance with the schedule set forth in section 6 of this chapter as if the primary were conducted. If a municipal election is not conducted in the municipality, the candidate must file a report in accordance with section 6 of this chapter as if the municipal election were conducted.

SECTION 75. IC 3-10-1-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.1. (a) All the candidates for each office who have qualified in the manner prescribed by IC 3-8 for placement on the primary election ballot shall be grouped together under the name of the office and printed in type with uniform capital letters, with uniform space between each name. At the head of each group where only one (1) candidate for each group is to be voted for, the words "vote for one (1) only" shall be printed. If more than one (1) candidate in a group is to be voted for, the number to be voted for shall be specified at the head of the group.**

(b) This subsection does not apply to a candidate for a political party office. A candidate's given name and surname as set forth in the candidate's voter registration record shall be printed in full.

(c) In addition to the candidate's given name and surname, the candidate may use:

- (1) initials; or**
- (2) a nickname by which the candidate is commonly known; if the candidate's choice of initials or nickname does not exceed twenty (20) characters. Any nickname used must appear in**

parentheses between the candidate's given name and the candidate's surname.

(d) A candidate may not use a designation such as a title or degree or a nickname that implies a title or degree.

(e) A candidate's name must be printed on the ballot exactly as the name appears on the candidate's certificate of nomination, petition of nomination, or declaration of candidacy.

SECTION 76. IC 3-10-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. Each political party holding a primary election shall have a separate ticket, either in printed ballot form as prescribed by sections 13 and ~~14~~ **14.1** of this chapter, or on separate ballot labels. The name of each candidate who has qualified under IC 3-8 shall be placed on the ballot under a designation of the office for which the person is a candidate. However, the name of a candidate may not appear on the ballot of more than one (1) party for the same office.

SECTION 77. IC 3-10-1-31, AS AMENDED BY P.L.209-2003, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) **This section applies to election materials for elections held before January 1, 2004.**

(b) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

~~(b)~~ **(c)** Except for unused ballots disposed of under IC 3-11-3-31, the circuit court clerk shall carefully preserve the ballots and other material and keep all seals intact for twenty-two (22) months, as required by 42 U.S.C. 1974, after which they may be destroyed unless:

- (1) an order issued under IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

~~(c)~~ **(d)** This subsection applies before January 1, 2006. Upon delivery of the poll lists, the ~~the~~ county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;

- (3) adding the registration of a voter under IC 3-7-48-8; or
- (4) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. ~~15843~~ **15483** and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection ~~(b)~~: **(c)**.

~~(d)~~ **(e)** This subsection applies after December 31, 2005. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46; or
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection ~~(b)~~: **(c)**.

~~(e)~~ **(f)** After the expiration of the period described in subsection ~~(b)~~: **(c)**, the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

SECTION 78. IC 3-10-1-31.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.1. (a) This section applies only to election materials for elections held after December 31, 2003.**

(b) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good

condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(c) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots and other material during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (d), after the recount or contest filing period, the election material (except for ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 42 U.S.C. 1974, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:

- (1) IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(d) If a petition for a recount or contest is filed, the material for that election remains confidential until completion of the recount or contest.

(e) This subsection applies before January 1, 2006. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) a change of name made under IC 3-7-41;
- (4) adding the registration of a voter under IC 3-7-48-8; or
- (5) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15483 and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the

registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(f) This subsection applies after December 31, 2005. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) a change of name made under IC 3-7-41; or
- (4) adding the registration of a voter under IC 3-7-48-8;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(g) This subsection does not apply to ballots. Notwithstanding subsection (c), if a county voter registration office determines that the inspection and copying of precinct election material would reveal the political parties, candidates, and public questions for which an individual cast an absentee ballot, the county voter registration office shall keep confidential only that part of the election material necessary to protect the secrecy of the voter's ballot.

(h) After the expiration of the period described in subsection (c) or (d), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

SECTION 79. IC 3-10-2-7, AS AMENDED BY P.L.122-2000, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. The following public officials shall be elected in 2002 and every four (4) years thereafter:

- (1) Secretary of state.

- (2) Auditor of state.
- (3) Treasurer of state.
- ~~(4) Clerk of the supreme court.~~

SECTION 80. IC 3-10-4-5, AS AMENDED BY P.L.66-2003, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) This subsection applies to a major political party and to a political party subject to IC 3-8-4-10. The state chairman of each political party shall certify to the election division the names of the nominees of the party for President and Vice President of the United States and the state of which each nominee is a resident.

(b) If candidates for presidential electors are nominated by petitioners instead of by a convention of a major political party or a party subject to IC 3-8-4-10, the petitioners shall certify with the list of names of electors:

- (1) the names of their nominees for President and Vice President of the United States;
- (2) the state of which each nominee is a resident; and
- (3) the name of the political party of the nominees, or that the nominees are an independent ticket.

(c) This subsection applies to a political party described in subsection (a) and to candidates nominated by petitioners under subsection (b). The names of:

- (1) all candidates for presidential electors; and
- (2) all nominees for President and Vice President of the United States;

shall be certified to the election division not later than noon on the second Tuesday in September before the general election. The election division shall certify to each county election board not later than noon on the ~~second~~ **next following** Thursday in September before the general election the names of the nominees for President and Vice President of the United States certified to the election division under this subsection.

(d) The names of all candidates for presidential electors for a write-in candidate shall be included on the declaration for candidacy filed by a write-in candidate for the office of President or Vice President of the United States filed under IC 3-8-2.

SECTION 81. IC 3-10-6-5, AS AMENDED BY P.L.122-2000, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: Sec. 5. Except as otherwise provided in this chapter, a municipal election shall be held on the first Tuesday after the first Monday in November ~~2003~~ **2007** and every four (4) years thereafter. At the election, public officials shall be elected to each municipal ~~and school board~~ office.

SECTION 82. IC 3-10-6-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. (a) Subject to subsection (b), an election may not be held for a municipal office if:

- (1) there is only one (1) nominee for the office **or only one (1) person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5; and**
- (2) no person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5 **that results in a contest for election to the same municipal office.**

(b) Except as provided in subsection (c), if there is an election for any office of the municipality, all nominees for each office must be on the ballot.

(c) If:

- (1) there is an election for at least one (1) of a municipality's legislative body members;
- (2) only the voters who reside in a legislative body district are eligible to vote in the election for a legislative body member; and
- (3) there is no election for an office to be voted on by all voters of the municipality;

the county election board may, by unanimous vote of the entire membership of the board, adopt a resolution providing that an election will be held only in the legislative body districts within the municipality in which voters will elect legislative body members under subdivision (2). The names of unopposed candidates for an office to be voted on by all voters of the municipality shall not be placed on the ballot used for the election of municipal legislative body members under this subsection.

SECTION 83. IC 3-10-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **Except as otherwise provided in this chapter**, the county election board, county executive, circuit court clerk, **voters**, and members of political parties in each county in which a municipal primary election or municipal election will be held have the rights and shall perform the duties and furnish the

assistance that they are required to do for a primary and general election under IC 3-10-1 and IC 3-11-8.

SECTION 84. IC 3-10-7-4, AS AMENDED BY P.L.66-2003, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A county election board and a town may enter into a written agreement providing that the county election board will conduct a municipal **primary or a municipal** election, **or both**, in the town.

(b) A town that enters into an agreement described in subsection (a) shall continue to nominate candidates by convention conducted under IC 3-8-5 or by petition filed under IC 3-8-6 unless the town nominates candidates in a primary election as provided in IC 3-8-5-2.

(c) An agreement may not be entered into after ~~July 1~~ **September 21** of a year in which a municipal election is to be held in the town.

(d) A county election board that enters into an agreement under this section shall conduct the municipal election in the same manner as it conducts a general election in a town that has a population of three thousand five hundred (3,500) or more.

SECTION 85. IC 3-10-7-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.5. (a) The county election board shall conduct a municipal election in a town ~~that has a population of less than five hundred (500)~~ unless the town legislative body adopts a resolution during the period:

- (1) beginning January 1; and
- (2) ending ~~April 1~~ **August 8**;

before the municipal election to establish a town election board under this chapter to conduct the municipal election.

(b) The town clerk-treasurer must file a copy of the resolution with the circuit court clerk of the county having the greatest percentage of the population of the town ~~before May 1~~ **not later than noon August 21** after the resolution is adopted.

(c) A resolution adopted under this section expires December 31 after its adoption.

SECTION 86. IC 3-10-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A municipal election conducted under this chapter shall be held at the time prescribed by IC 3-10-6.

(b) Subject to subsection (c), an election may not be held for a

municipal office if:

- (1) there is only one (1) nominee for the office **or only one (1) person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5;** and
- (2) no person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5 **that results in a contest for election to the same municipal office.**

(c) Except as provided in subsection (d), if there is an election for any office of the municipality, all nominees for each office must be on the ballot.

(d) If:

- (1) there is an election for at least one (1) of the town's legislative body members;
- (2) only the voters who reside in a legislative body district are eligible to vote in the election for a legislative body member; and
- (3) there is no election for an office to be voted on by all voters of the town;

the county election board (or town election board if that board is conducting the election under this chapter) may, by unanimous vote of the entire membership of the board, adopt a resolution providing that an election will be held only in the legislative body districts within the town in which voters will elect legislative body members under subdivision (2). The names of unopposed candidates for an office to be voted on by all voters of the town shall not be placed on the ballot used for the election of town legislative body members under this subsection.

SECTION 87. IC 3-10-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. Except as otherwise provided in this chapter, a town election board conducting a municipal election under this chapter, the town executive, the town clerk-treasurer, **voters**, and members of political parties in each town in which a municipal election is conducted under this chapter have the same rights and powers, shall perform the same duties, and are subject to the same qualifications and penalties as a county election board that is conducting a general election, or the county executive, circuit court clerk, or member of a political party in a town in which a general election is conducted by the county election board.

SECTION 88. IC 3-10-7-33, AS AMENDED BY P.L.209-2003,

SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) A town election board shall canvass the votes from a municipal election in the manner prescribed by IC 3-12-4.

(b) After completion of the canvass, the town election board shall immediately file the poll lists, ballots, tally sheets, and other election forms with the circuit court clerk of the county containing the greatest percentage of population of the town for preservation and voter list maintenance in accordance with IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 89. IC 3-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Except as provided in subsection (b) or (c), if a special election is held at a time other than the time of a general election, the election shall be held in accordance with this title. Each county election board and other local public official who is required to perform any duties in connection with a general election shall perform the same duties for the special election, subject to the same provisions and penalties as for a general election.

(b) If a special election is held:

(1) under a court order under IC 3-12-8; or

(2) for a local public question;

the county election board may provide that several precincts may vote in the special election at the same polling place, if the county election board finds by unanimous vote of the entire membership of the board that the consolidation of polling places will not result in undue inconvenience to voters.

(c) If a special election is held:

(1) under a court order under IC 3-12-8 for a school board office;
or

(2) for a local public question;

the county election board may by unanimous vote of the entire membership of the board adopt a resolution to provide that each precinct election board will include only one (1) inspector and one (1) judge, and that only one (1) sheriff and one (1) poll clerk may be nominated as precinct election officers. **If the board has adopted a resolution under subsection (b), a resolution adopted under this subsection may also provide for more than one (1) precinct to be served by the same precinct election board.** A resolution adopted under this subsection may not be rescinded by the county election

board and expires the day after the special election is conducted.

(d) The following procedures apply if a county election board adopts a resolution under subsection (c):

(1) The inspector shall be nominated by the county chairman entitled to nominate an inspector under IC 3-6-6-8.

(2) The judge shall act as a clerk whenever this title requires that two (2) clerks perform a duty.

(3) The poll clerk shall act as a judge whenever this title requires that two (2) judges perform a duty.

SECTION 90. IC 3-10-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If the special election occurs during the period when registration is open under IC 3-7-13, the registration period continues through the twenty-ninth day before the special election occurs and resumes on the ~~first day of the month following the month in which the special election is conducted.~~ **date specified by IC 3-7-13-10(d).**

(b) The election board conducting the special election shall provide poll lists for use at the precincts that include the names of voters in the precinct who:

(1) have registered through the twenty-ninth day before the special election is to be conducted; or

(2) are absent uniformed services voters or overseas voters registered under IC 3-7-36.

(c) This subsection applies when a special election is ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18. A candidate may not be placed on the special election ballot unless the candidate was on the ballot or was a declared write-in candidate for the office at the general election preceding the special election.

(d) The restrictions on the sale of alcoholic beverages set forth in IC 7.1-5-10-1 apply in each precinct in which the special election is conducted.

SECTION 91. IC 3-11-1.5-15, AS AMENDED BY P.L.212-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The order described in section 14 of this chapter must include the following:

(1) A map of each precinct to be established by the proposed order. A county may submit maps required by this subdivision in

electronic form.

(2) A description of the boundaries of each precinct to be established by the proposed order that identifies any census blocks located entirely within the precinct.

(3) An estimated number of voters in each precinct to be established by the proposed order, based on the registration records maintained by the ~~circuit court clerk or board of county voter~~ registration office.

(4) A statement designating a polling place for the precinct that complies with the polling place accessibility requirements adopted ~~by the commission.~~ **under IC 3-11-8.**

(5) Any additional information required by rules adopted by the commission under IC 4-22-2.

SECTION 92. IC 3-11-1.5-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. **(a)** If the boundaries of a municipality are extended before

~~(1) thirty (30) days before~~ a municipal primary election or

~~(2) thirty (30) days before~~ a municipal election,

and the territory within those boundaries has not been included in precincts wholly within the municipality, the voters within the extended boundaries may vote, if otherwise qualified, in the municipal primary election or municipal election.

(b) The voters may vote in the precinct in which they have their residence as if the precinct had been established to include them in a precinct wholly within the municipality. These votes shall be counted and included in the canvass of the votes cast in the municipal primary election or municipal election.

SECTION 93. IC 3-11-2-2, AS AMENDED BY P.L.66-2003, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** Each county election board shall have the:

(1) names of all candidates for United States Representative, legislative offices, and local offices; and

(2) local public questions;

in election districts within the county printed on a ballot as provided in this chapter. The county may print all offices on a single ballot under this section.

(b) This section expires January 1, 2005.

SECTION 94. IC 3-11-2-2.1 IS ADDED TO THE INDIANA CODE

AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.1. (a) This section applies after December 31, 2004.**

(b) Each county election board shall have the:

(1) names of all candidates for election to offices or retention in offices; and

(2) state and local public questions;

in election districts wholly or partially within the county printed on a ballot as provided in this chapter. The county may print all offices on a single ballot under this section.

SECTION 95. IC 3-11-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) The device named and list of nominees shall be placed on the ballots as follows:**

(1) The major political party whose candidate received the highest number of votes in the county for secretary of state at the last election in the first column or row on the left side of all ballots.

(2) The major political party whose candidate received the second highest number of votes in the county for secretary of state at the last election in the second column or row.

(3) Any other political party in the same order.

(b) If a political party did not have a candidate for secretary of state in the last election or a nominee is an independent candidate (or **an independent ticket for President and Vice President of the United States or for governor and lieutenant governor), the party or independent candidate or ticket shall be placed on the ballot after the parties described in subsection (a). If more than one (1) political party or independent candidate or ticket that has qualified to be on the ballot did not have a candidate for secretary of state in the last election, those parties, candidates, or tickets shall be listed on the ballot in the order in which the party filed its petition of nomination under IC 3-8-6-12.**

(c) Subject to subsection (e), a column or row for write-in voting shall be placed to the right of all party and independent columns on the ballot.

(d) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). If there is insufficient room on a row to list each candidate of a political party, a second or subsequent row may be utilized. However, a second or subsequent row may not be utilized unless the first row, and all preceding rows, have been filled.

(e) **A column or row for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.**

SECTION 96. IC 3-11-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The device of each political party or independent ticket **described in section 6 of this chapter** shall be:

- (1) enclosed in a circle not less than three-fourths (3/4) of an inch in diameter; and
- (2) placed under the name of the party or independent ticket, as required by section 10 of this chapter.

SECTION 97. IC 3-11-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The name or title of the political party or independent ticket **described in section 6 of this chapter** shall be placed at the top of the ballot. The device of the political party or independent ~~candidate~~ **ticket** shall be placed immediately under the name of the political party or independent ticket. The instructions for voting a straight party ticket shall be placed to the right of the device, or if the ballot is part of a direct recording electronic voting system:

- (1) the instructions for voting a straight party ticket; and
- (2) the statement concerning presidential electors required under IC 3-10-4-3;

may be posted in any location within the voting booth that permits the voter to easily read the instructions instead of on the ballot face.

(b) The instructions for voting a straight party ticket must conform as nearly as possible to the following: "To vote a straight (insert political party name) ticket for all (political party name) candidates on this ballot, make a voting mark on or in this circle and do not make any other marks on this ballot. If you wish to vote for a candidate seeking a nonpartisan office or on a public question, you must make another voting mark on the appropriate place on this ballot."

(c) If the ballot contains an independent ticket **described in section 6 of this chapter** and at least one (1) other independent candidate, the ballot must also contain a statement that reads substantially as follows: "A vote cast for an independent ticket will only be counted for the candidates for President and Vice President or governor and lieutenant

governor comprising that independent ticket. This vote will NOT be counted for any OTHER independent candidate appearing on the ballot."

(d) The ballot must also contain a statement that reads substantially as follows: "A write-in vote will NOT be counted unless the vote is for a DECLARED write-in candidate. To vote for a write-in candidate, you must make a voting mark on or in the square to the left of the name you have written in or your vote will not be counted."

(e) Except for variations in ballot arrangement permitted for voting machines under IC 3-11-12-7, ballot card voting systems under IC 3-11-13-11, or electronic voting systems under IC 3-11-14-7, the list of candidates of the political party shall be placed immediately under the instructions for voting a straight party ticket. The names of the candidates shall be placed three-fourths (3/4) of an inch apart from center to center of the name. The name of each candidate must have, immediately on its left, a square three-eighths (3/8) of an inch on each side.

(f) The election division or the circuit court clerk may authorize the printing of ballots containing a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

SECTION 98. IC 3-11-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

(1) Federal and state offices:

- (A) President and Vice President of the United States.
- (B) United States Senator.
- (C) Governor and lieutenant governor.
- (D) Secretary of state.
- (E) Auditor of state.
- (F) Treasurer of state.
- (G) Attorney general.
- (H) Superintendent of public instruction.
- ~~(I) Clerk of the supreme court.~~
- ~~(I)~~ (I) United States Representative.

(2) Legislative offices:

- (A) State senator.
- (B) State representative.

- (3) Circuit offices and county judicial offices:
 - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
 - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
 - (C) Judge of the probate court.
 - (D) Judge of the county court, with each division separate, as required by ~~IC 33-10-5-4-2~~. **IC 33-30-3-3.**
 - (E) Prosecuting attorney.
 - (F) Clerk of the circuit court.
- (4) County offices:
 - (A) County auditor.
 - (B) County recorder.
 - (C) County treasurer.
 - (D) County sheriff.
 - (E) County coroner.
 - (F) County surveyor.
 - (G) County assessor.
 - (H) County commissioner.
 - (I) County council member.
- (5) Township offices:
 - (A) Township assessor.
 - (B) Township trustee.
 - (C) Township board member.
 - (D) Judge of the small claims court.
 - (E) Constable of the small claims court.
- (6) City offices:
 - (A) Mayor.
 - (B) Clerk or clerk-treasurer.
 - (C) Judge of the city court.
 - (D) City-county council member or common council member.
- (7) Town offices:
 - (A) Clerk-treasurer.
 - (B) Judge of the town court.
 - (C) Town council member.

SECTION 99. IC 3-11-2-12.7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12.7. (a) This section applies to candidates for election to at-large seats on the fiscal or legislative body of a political subdivision.

(b) Candidates shall be listed in alphabetical order according to surname within each row or column on the ballot.

(c) In each row or column on the ballot in which the names of candidates appear, the ballot shall contain a statement reading substantially as follows above the name of the first candidate: "Vote for not more than (insert number of candidates to be elected) candidates of ANY party or ticket for this office."

(d) If more than one (1) candidate for an at-large seat was nominated by the same petition of nomination, these candidates shall be listed in alphabetical order by surname within the same row or column on the ballot, with the position of the row or column being determined under section 6 of this chapter.

SECTION 100. IC 3-11-3-2, AS AMENDED BY P.L.126-2002, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The election division shall have printed and shall distribute to the circuit court clerk of each county at each general election the following:

(1) If only paper ballots are used, the number of state paper ballots (and presidential ballots in a presidential election year) equal to one hundred percent (100%) of the number of voters in the county.

(2) If voting machines, ballot card voting systems, or electronic voting systems are used, only the number of presidential and state paper ballots that, in the election division's judgment, are necessary to meet an emergency.

(3) ~~After December 31, 2003,~~ The number of provisional ballots for state offices (and provisional ballots for **electors** for President of the United States in presidential election years) that the election division considers necessary.

(b) The paper ballots shall be wrapped in packages, plainly marked, and securely sealed.

(c) The provisional ballots shall be separately wrapped in packages from the other paper ballots, plainly marked, and securely sealed.

(d) The clerk shall give a receipt for the paper ballots and the provisional ballots.

SECTION 101. IC 3-11-4-1, AS AMENDED BY P.L.126-2002, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A voter who is otherwise qualified to vote in person is entitled to vote by absentee ballot. Except as otherwise provided in this article, a voter voting by absentee ballot must vote in the office of the circuit court clerk **(or board of elections and registration in a county subject to IC 3-6-5.2)** or at a satellite office established under IC 3-11-10-26.3.

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 102. IC 3-11-4-3, AS AMENDED BY P.L.1-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b) and section 6 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

(1) Noon on election day if the voter registers to vote under IC 3-7-36-14.

(2) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk **or is an absent uniformed services voter or overseas voter who requests that**

the ballot be transmitted by fax under section 6(h) of this chapter.

(3) Noon on the day before election day if:

(A) the application is a mailed or hand delivered application from a confined voter or voter caring for a confined person; and

(B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.

(4) Midnight on the eighth day before election day if the application:

(A) is a mailed application; or

(B) was transmitted by fax;

from other voters.

(b) This subsection applies to an absentee ballot application from a confined voter or voter caring for a confined person that is sent by fax, mailed, or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection that is sent by fax or hand delivered must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than 10 p.m. on the fifth day before election day. An application subject to this subsection that is mailed must be received by the circuit court clerk not earlier than ninety (90) days before election day and not later than 10 p.m. on the eighth day before election day.

SECTION 103. IC 3-11-4-12, AS AMENDED BY P.L.38-1999, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The absentee ballots for:

(1) President and Vice President of the United States;

(2) United States Senator;

(3) all state offices; and

(4) the ratification or rejection of a public question to be voted for by the electorate of the entire state or for the retention of a judge of the Indiana court of appeals;

shall be prepared and printed under the direction of the election division.

(b) The election division shall have the ballots printed upon certification of the political party tickets and independent candidates.

(c) **Except as provided in subsection (f)**, ballots prepared under this section must provide space for the voter to cast a write-in ballot.

(d) The election division shall prepare a special absentee ballot for use by:

- (1) absent uniformed services voters; and
- (2) overseas voters;

who will be outside of the United States on general election day.

(e) The ballot described by subsection (d):

- (1) must indicate each state office to be elected by the voters at the general election;
- (2) must set forth each public question to be voted for at the general election by the electorate of the entire state;
- (3) may not state the name of any political party or candidate for election;
- (4) must permit the voter to write in the name of a political party or a candidate for election to each office; and
- (5) must include a notice stating that regular absentee ballots will be mailed to the voter by the county election board as soon as the ballots are available.

(f) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 104. IC 3-11-4-14, AS AMENDED BY P.L.66-2003, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. **(a)** All absentee ballots other than those specified in section 12 of this chapter shall be prepared and printed under the direction of each county election board. After completing the estimate required by section 10 of this chapter and receiving all certifications from the election division required under IC 3-8 or IC 3-10, the county election board shall immediately proceed to prepare and have printed the ballots.

(b) Except as provided in subsection (c), ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

(c) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 105. IC 3-11-4-18, AS AMENDED BY P.L.209-2003,

SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) If a voter satisfies any of the following, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application:

- (1) The voter will be absent from the county on election day.
- (2) The voter will be absent from the precinct of the voter's residence on election day because of service as:
 - (A) a precinct election officer under IC 3-6-6;
 - (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
 - (C) a challenger or pollbook holder under IC 3-6-7; or
 - (D) a person employed by an election board to administer the election for which the absentee ballot is requested.
- (3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.
- (4) The voter is a voter with disabilities.
- (5) The voter is an elderly voter.
- (6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.
- (7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.
- (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) ~~This subsection applies after December 31, 2003.~~ If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted **as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot.** The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) The ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) The ballot described in subsection (d):

(1) must be mailed:

- (A) on the day of the receipt of the voter's application; or
- (B) not more than five (5) days after the **latest date of for** delivery of the ballots under section 13(b) of this chapter **applicable to that election;**

whichever is later; and

- (2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) This subsection applies after December 31, 2005. As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple ~~ballots~~ **votes** for a single office.

(g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 106. IC 3-11-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A voting machine must permit a voter to vote:

(1) except at a primary election, for:

- (A) all the candidates of one (1) political party;
- (B) one (1) or more candidates of each political party;
- (C) one (1) or more candidates nominated by petition under IC 3-8-6; or
- (D) a write-in candidate, unless the procedures in subsection

(b) are followed;

(2) for as many candidates for an office as the voter may vote for, but no more;

(3) for or against a public question on which the voter may vote, but no other; and

(4) for all the candidates for presidential electors of a political party or an independent ticket at one (1) time.

(b) **Except as provided in subsection (c)**, in a precinct using voting machines that do not permit write-in votes, the precinct election board shall provide a paper ballot to a voter who requests to cast a write-in vote. After such a request, a poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) require the voter to sign the poll list; and

(2) inform the voter of the procedure that must be followed to cast a write-in vote.

(c) Paper ballots for write-in voting for an office are not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 107. IC 3-11-6.5-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.1. The secretary of state, with the consent of the co-directors of the election division, may administer the fund in accordance with the HAVA state plan, as published in the Indiana Register on November 1, 2003. The state plan may be amended in accordance with the requirements of HAVA and the procedures for amendment set forth in the plan. If the plan is amended as provided in this section, the fund may be administered in accordance with that amendment.**

SECTION 108. IC 3-11-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. (a) A proposed improvement or change to a ballot card voting system shall be reported to the election division by:**

(1) the vendor, if a vendor is involved in the proposed change; and

(2) the county election board, if a county is proposing the change.

A proposed improvement or change may not be **marketed, sold, leased, installed, or implemented in Indiana** before the improvement

or change is approved by the commission.

(b) A report of an improvement or change must be in the form prescribed by the commission.

(c) The election division (or a competent person designated by the commission to act on behalf of the election division) shall review the improvement or change to the voting system and report the results of the review to the commission. The commission shall determine, within a reasonable period of time, whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this chapter or the standards adopted by the commission under section 2 of this chapter.

(d) After the commission has approved an improvement or change, the improvement or change may be **marketed, sold, leased, installed, or implemented in Indiana.**

SECTION 109. IC 3-11-7-17, AS AMENDED BY P.L.126-2002, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The election division (or a competent person designated by the commission to act on behalf of the election division) may periodically examine a ballot card voting system that the commission has previously approved to determine if the system is still in compliance with all statutory requirements.

(b) If the election division or competent person finds that a system examined under subsection (a) fails to meet all requirements and standards, and the commission concurs in these findings, the commission may, by unanimous vote of all of the members of the commission, rescind the commission's approval of the ~~vendor.~~ **voting system.**

(c) If the commission's approval is rescinded under subsection (b), the commission may, by unanimous vote of all of the members of the commission:

- (1) recommend that use of the system be discontinued; and
- (2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to a ballot card voting system approved for its initial certification before:

- (1) March 25, 1992; or
- (2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting

system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

SECTION 110. IC 3-11-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) **Except as provided in subsection (g)**, the approval of a ballot card voting system under this chapter expires five (5) years after the date the commission approves the system.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before considering the application for renewal, the election division shall give notice by regular United States mail of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the commission shall request comments regarding the renewal of the application from any interested person.

(e) The commission may, by unanimous consent of its entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(f) The commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

(g) If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

(1) has not been certified by the commission for use in Indiana; or

(2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

(h) A vendor subject to subsection (g) may continue to provide support during the period specified in subsection (g) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 111. IC 3-11-7.5-5, AS AMENDED BY P.L.176-1999, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A proposed improvement or change to an electronic voting system shall be reported to the election division by:

(1) the vendor, if a vendor is involved in the proposed change; and

(2) the county election board, if a county is proposing the change.

A proposed improvement or change may not be **marketed, sold, leased, installed, or implemented in Indiana** before the improvement or change is approved by the commission.

(b) A report of an improvement or change must be in the form prescribed by the commission.

(c) The election division (or a competent person designated by the commission to act on behalf of the election division) shall review the improvement or change to the voting system and report the results of the review to the commission. The commission shall determine within a reasonable period of time whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this article.

(d) After the commission has examined and approved an improvement or change to an electronic voting system, the improvement or change may be **marketed, sold, leased, installed, or implemented in Indiana**.

SECTION 112. IC 3-11-7.5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. The county election board may provide for the experimental use of an electronic voting system at an election in one (1) or more precincts in the county. The system may be used without a formal adoption **by the county** or purchase but **the electronic voting system** must be approved by the commission **before the system is implemented in or used by the county**. The experimental use of a system at an election **in accordance with this section** is valid for all purposes as if formally adopted **by the county**.

SECTION 113. IC 3-11-7.5-26, AS AMENDED BY P.L.126-2002, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The election division (or a competent person designated by the commission to act on behalf of the election division) may periodically examine an electronic voting system that the commission has previously approved to determine if that system is still in compliance with all statutory requirements.

(b) If the election division or competent person finds that a system examined under subsection (a) fails to meet all requirements and standards, and the commission concurs in these findings, the commission may, by unanimous vote of all of the members of the commission, rescind the commission's approval of the ~~vendor~~ **voting system**.

(c) If the commission's approval is rescinded under subsection (b), the commission may by unanimous vote of all of the members of the commission:

- (1) recommend that use of the system be discontinued; and
- (2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to an electronic voting system approved for its initial certification before:

- (1) March 25, 1992; or
- (2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing

expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

SECTION 114. IC 3-11-7.5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) **Except as provided in subsection (g)**, the approval of an electronic voting system under this chapter expires five (5) years after the date the commission approves the system.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before the commission considers the application for renewal, the election division shall give notice by regular United States mail of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the election division shall request comments regarding the renewal of the application from any interested person.

(e) The commission may, by unanimous consent of the commission's entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(f) The commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

(g) If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in Indiana; or**
- (2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;**

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

(h) A vendor subject to subsection (g) may continue to provide support during the period specified in subsection (g) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 115. IC 3-11-8-4.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.3. If a precinct contains less than two hundred fifty (250) active voters, the county election board adopts an order by the unanimous vote of the entire membership of the board, the county executive may locate the polls for the precinct at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct. **An order adopted under this section expires December 31 after the date the order was adopted.**

SECTION 116. IC 3-11-8-15, AS AMENDED BY P.L.209-2003, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) **Only the following persons other than are permitted in the polls during an election:**

- (1) Members of a precinct election board.
- (2) Poll clerks and assistant poll clerks.
- (3) Election sheriffs.
- (4) Deputy election commissioners.
- (5) Pollbook holders.
- (6) Watchers. ~~and~~
- (7) **Voters for the purposes of voting.**
- (8) Minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29. ~~and~~
- ~~(8)~~ (9) An assistant to a precinct election officer appointed under IC 3-6-6-39.

~~are not permitted in the polls during an election except for the purpose of voting:~~

- (10) **An individual authorized to assist a voter in accordance with IC 3-11-9.**
- (11) **A member of a county election board, acting on behalf of**

the board.

(12) A mechanic authorized to act on behalf of a county election board to repair a voting system (if the mechanic bears credentials signed by each member of the board).

(13) Either of the following who have been issued credentials signed by the members of the county election board:

(A) The county chairman of a political party.

(B) The county vice chairman of a political party.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 117. IC 3-11-8-25.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25.2. (a) This section applies after December 31, 2005.**

(b) The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present a piece of identification described in subsection (c) to the poll clerk.

(c) As required by 42 U.S.C. 15483, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

(1) A current and valid photo identification.

(2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(d) If a voter presents a document under subsection (c), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(e) If a voter required to present documentation under subsection (c) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(f) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

SECTION 118. IC 3-11-8-26, AS AMENDED BY P.L.209-2003, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) If a voter:

- (1) cannot sign; or
- (2) is a voter with a disability that makes it difficult for the voter to sign;

the voter's name and address, the poll clerks shall, by proper interrogation, satisfy themselves that the voter is the person the voter represents the voter to be.

(b) If satisfied as to the voter's identity under subsection (a), one (1) of the poll clerks shall then place the following on the poll list:

- (1) The voter's name.
- (2) The voter's current residence address.

(c) The poll clerks shall:

- (1) ask the voter to provide **or update** the voter's voter identification number;
- (2) tell the voter the number the voter may use as a voter identification number; and
- (3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

(d) The poll clerk shall then add the clerk's initials in parentheses, after or under the signature. The voter then may vote.

(e) This section expires January 1, 2006.

SECTION 119. IC 3-11-8-30 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. Each inspector shall return the poll lists, together with the oaths of the precinct election board members, in a sealed envelope separate from all other precinct election returns to the circuit court clerk. The clerk shall preserve the poll lists for the period required by IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 120. IC 3-11-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who:

- (1) is a voter with disabilities; or
- (2) is unable to read or write English;

may request assistance in voting before entering the voting booth and designate a person (other than the voter's employer, an officer of the voter's union, or an agent of the voter's employer or union) to assist the voter in voting at an election, as required by 42 U.S.C. 1973aa-6.

(b) This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee before two (2) members of the absentee voter board. The person designated must execute a sworn affidavit on a form provided by the precinct election board ~~or absentee voter board~~ stating that, to the best of the designated person's knowledge, the voter:

- (1) is a voter with disabilities or is unable to read or write English; and
- (2) has requested the designated person to assist the voter in voting under this section.

(c) The person designated may then accompany the voter into the voting booth and assist the voter in marking the voter's paper ballot or ballot card or in registering the voter's vote on the voting machine or electronic voting system.

SECTION 121. IC 3-11-10-16, AS AMENDED BY P.L.209-2003, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) If the inspector finds under section 15 of this chapter that:

- (1) the affidavit is properly executed;
- (2) the signatures correspond;
- (3) the absentee voter is a qualified voter of the precinct;
- (4) the absentee voter is registered and ~~after December 31, 2003,~~ is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;

- (5) the absentee voter has not voted in person at the election; and
- (6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

then the inspector shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) The inspector shall then hand the ballots to the judges who shall deposit the ballots in the proper ballot box and enter the absentee voter's name on the poll list, as if the absentee voter had been present and voted in person. **The judges shall mark the poll list to indicate that the voter has voted by absentee ballot.** If the voter has registered and voted under IC 3-7-36-14, the inspector shall attach to the poll list the circuit court clerk's certification that the voter has registered.

(c) If an absentee ballot is opened under this section in a precinct using voting machines, the precinct election board shall prepare certificates and memoranda under IC 3-12-2-6 that distinguish the votes cast by absentee ballots from votes cast on voting machines.

SECTION 122. IC 3-11-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast. ~~The precinct election board may hear and determine a challenge under this section as though the ballot was cast by the voter in person.~~ **regarding the absentee ballot must be determined using the procedures for counting a provisional ballot under IC 3-11.7.**

SECTION 123. IC 3-11-10-24.5, AS ADDED BY P.L.209-2003, SECTION 145, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24.5. (a) This section applies after December 31, 2005.

(b) As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple ~~ballots~~ **votes** for a single office.

SECTION 124. IC 3-11-10-26, AS AMENDED BY P.L.209-2003,

SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

(1) in the office of the circuit court clerk **(or board of elections and registration in a county subject to IC 3-6-5.2);** or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must sign an application on the form prescribed by the commission under IC 3-11-4-5.1 before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

~~(e)~~ **(f)** Notwithstanding subsection ~~(d)~~, **(e)**, in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

~~(f)~~ **(g)** This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

~~(g)~~ **(h)** As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 125. IC 3-11-10-26.2, AS ADDED BY P.L.69-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.2. (a) A:

(1) county election board; or

(2) board of elections and registration;

of a county subject to IC 3-11.5 may adopt a resolution to authorize the circuit court clerk to use an electronic voting system for voting by absentee ballot in the office of the circuit court clerk **or board of elections and registration.**

(b) A resolution adopted under this section must be adopted by the unanimous vote of the board's entire membership.

(c) A resolution adopted under this section must provide procedures to **do the following:**

(1) Secure absentee votes cast on an electronic voting system that provide protection comparable to the protection provided to absentee votes cast by paper ballot.

(2) Compare the signature on an absentee ballot application with the applicant's signature on the applicant's voter registration application.

(3) Ensure that an invalid ballot (as determined under IC 3-11.5) is not counted.

(d) A resolution adopted under this section may contain other provisions the board considers useful.

(e) If a resolution is adopted under this section, the circuit court

clerk may use as many electronic voting machines for recording absentee votes as the clerk considers necessary, subject to the resolution adopted by the board.

(f) Notwithstanding any other law, an absentee ballot voted on an electronic voting system under this section is not required to bear the seal, signature, and initials prescribed by section 27 of this chapter.

(g) If a resolution is adopted under this section, the procedure for casting an absentee ballot on an electronic voting system must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk under section 26 of this chapter.

SECTION 126. IC 3-11-10-28, AS AMENDED BY P.L.209-2003, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) A voter voting before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under IC 3-11-9.

(b) The voter shall then, in the presence of the board, place the ballot in an envelope furnished by the county election board.

(c) The circuit court clerk shall provide, to the extent practicable, the same degree of privacy to absentee voters voting at the office of the circuit court clerk as provided to voters at the polls on election day.

(d) This subsection applies to a voter required to present additional information under IC 3-7-33-4.5. If the voter does not present the required additional information before receiving the absentee ballot, the absentee ballot shall be processed as a **provisional ballot under IC 3-11-7, in accordance with section 4.5(d) of this chapter.**

(e) Upon accepting the completed absentee ballot from the voter, the board shall provide the voter with a notice:

- (1) listing the documentation the voter may submit to the county voter registration office to comply with IC 3-7-33-4.5; and
- (2) stating the address and hours of the county voter registration office.

SECTION 127. IC 3-11-10-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. (a) Each county election board shall appoint absentee voter boards.

(b) The absentee voter boards must consist of two (2) voters of the

county, one (1) from each of the two (2) political parties that have appointed members on the county election board. If a special election is held for a local public question, the county election board may, by unanimous vote of the entire membership of the board, adopt a resolution to provide that the party membership requirement does not apply to absentee voter boards appointed to conduct the special election. A resolution adopted under this subsection may not be repealed and expires the day after the special election.

(c) An otherwise qualified person is eligible to serve on an absentee voter board unless the person:

- (1) is unable to read, write, and speak the English language;
- (2) has any property bet or wagered on the result of the election;
- (3) is a candidate to be voted for at the election, except as an unopposed candidate for precinct committeeman or state convention delegate; or
- (4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election, except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

(d) A person who is a candidate to be voted for at the election or who is related to a candidate in a manner that would result in disqualification under subsection (c) may, notwithstanding subsection (c), serve as a member of an absentee voter board if:

- (1) the candidate is seeking nomination or election to an office in an election district that does not consist of the entire county; and**
- (2) the county election board restricts the duties of the person as an absentee voter board member to performing functions that could have no influence on the casting or counting of absentee ballots within the election district.**

SECTION 128. IC 3-11-10-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) Not later than noon ten (10) days before absentee voting begins under section 26 of this chapter, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members

on the county election board of the number of absentee voter boards to be appointed under section 36 of this chapter.

(b) The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before absentee voting begins under section 26 of this chapter. The county election board shall make the appointments as recommended. If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county **who comply with section 36 of this chapter.**

SECTION 129. IC 3-11-11-1.2, AS ADDED BY P.L.209-2003, SECTION 150, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. (a) This section applies after December 31, 2005.

(b) As required by 42 U.S.C. 15481, an election board must establish a voter education program to notify a voter of the effect of casting multiple ~~ballots~~ **votes** for a single office on a paper ballot.

SECTION 130. IC 3-11-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who by accident or mistake spoils, defaces, or mutilates the voter's ballot may, by returning the ballot to the poll clerks or assistant poll clerks and satisfying them that the spoiling, defacing, or mutilation was not intentional, receive another ballot. The poll clerks or assistant poll clerks shall make a record of the fact on the poll list, and the ballot shall then be marked "VOID" by the precinct election board in the presence of the voter and returned with the other election materials as required by IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 131. IC 3-11-13-18, AS AMENDED BY P.L.209-2003, SECTION 156, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) This subsection does not apply to an optical scan voting system and expires January 1, 2006. Each ballot card provided under section 17 of this chapter must have two (2) attached perforated stubs on which is printed the same serial number. The top stub shall be bound or stapled in the package of ballot cards retained by the precinct election officers. The following information must be printed on the second stub:

- (1) The name of the political subdivision holding the election.
- (2) The designation of the election.
- (3) The date of the election.

(4) The instructions to the voters.

(5) In a primary election, the name of the political party.

(b) The county election board in a county using a ballot card voting system shall provide ballot cards to the precinct election board that permit voters to cast write-in votes for each officer to be voted for at that election.

(c) The ballot cards provided under subsection (b) must be:

(1) designed to be folded; or

(2) accompanied by a secrecy envelope;

to ensure the secrecy of each of the votes cast by a voter.

(d) This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system. **Except as provided in subsection (e)**, a write-in vote shall be cast by printing the name of the candidate and the title of the office in the space provided for write-in votes on a ballot card or secrecy envelope.

(e) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 132. IC 3-11-13-23, AS AMENDED BY P.L.26-2000, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The two (2) appointed members of the county election board shall observe the test required by section 22 of this chapter and certify the test as meeting the requirements of section 22 of this chapter.

(b) A copy of the certification of the test conducted under section 22(b) of this chapter shall be ~~transmitted to the election division immediately, and another copy shall be~~ filed with the election returns.

(c) The test must be open to representatives of political parties, candidates, the media, and the public.

SECTION 133. IC 3-11-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a) Each application must be in writing, sworn to or affirmed by the applicant, under the penalties of perjury, on a form prescribed by the commission, and contain must satisfy the following information requirements:**

(1) **Provide** the name and address of the vendor submitting the

application.

(2) **Provide** the telephone number of the vendor.

(3) **Provide the name, address, and telephone number of the individual representing the vendor regarding the application.**

(4) **Provide the type and model name and number of the submitted voting system, stating the hardware, firmware, and software version numbers of the system.**

(5) **State whether the voting system is a direct record electronic voting system or an optical scan ballot card voting system.**

~~(4)~~ (6) **Provide** a description of the voting system and its capabilities, including **the following:**

(A) Photographs.

(B) Engineering drawings. ~~and~~

(C) Technical documentation.

(D) Fail-safe and emergency backup information.

(E) Environmental requirements for storage, transportation, and operation.

~~(5)~~ (7) **Include** an agreement to pay for the total costs of the examination.

(8) **Provide documentation of the escrow of the voting system's software, firmware, source codes, and executable images with an escrow agent approved by the election division.**

(9) **Provide a functional description of any software components.**

(10) **Provide schematics or flowcharts identifying software and data file relationships.**

(11) **Describe the type of maintenance offered by the vendor.**

(12) **Provide the names, addresses, and telephone numbers of the vendor's maintenance providers.**

(13) **Provide a description of the training courses offered by the vendor for the voting system.**

(14) **Provide user manuals, operator and system manuals, and problem solving manuals.**

(15) **Provide a statement of the current and future interchangeability of all subcomponents of the voting system.**

(16) **Provide documentation from all independent testing**

authorities that have examined the system.

(17) Provide documentation from all election jurisdictions that have previously approved the system.

(18) Pay the application fee required under section 4 of this chapter.

(b) If an application does not include any of the applicable requirements listed in subsection (a), those requirements must be filed with the election division before the application may be considered by the commission.

SECTION 134. IC 3-11-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. A vendor ~~may~~ **shall** reapply to the election division for reexamination of a voting system if the commission determines that an improvement or change to a voting system requires a reexamination of that system.

SECTION 135. IC 3-11-15-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 49. ~~(a) This section applies to a voting system approved by the commission after July 1, 1997.~~

~~(b) Before a vendor markets, sells, leases, installs, or permits the implementation of a voting system in Indiana, the vendor shall provide for the escrow of system software and source codes in accordance with an agreement between the vendor and the election division.~~ **commission must have approved the vendor's application for the approval of the voting system.**

SECTION 136. IC 3-11-15-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 51. (a) This section applies to any voting system change.

(b) To implement the requirements imposed under IC 3-11-7-15 and IC 3-11-7.5-5 for a vendor or county election board to report a proposed improvement or change to a voting system to the commission and for the commission to determine if the improvement or change may be **marketed, sold, leased, installed, or** implemented, the election division shall review and recommend whether the commission should approve proposed software, **firmware**, or hardware change introduced after the system has completed qualification in accordance with this chapter.

SECTION 137. IC 3-11-15-57 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 57. (a) This section

applies to a proposed change in a voting system that is not an emergency voting system change.

(b) The vendor or a county election board shall file a written request for the proposed change with the election division under IC 3-11-7-15 or IC 3-11-7.5-5. The request must include the following information:

- (1) The reasons for the proposed change.
 - (2) The schedule for making the proposed change, if approved.
 - (3) A description of the files that will be changed, including directory information such as the file name and the size of the file (in bytes) both before and after the change is made.
 - (4) A brief summary of the changes to be made in each of the files.
 - (5) The name and title of each technician who will make the change.
 - (6) If the technician is acting for a vendor or other company, the name of the company, and the telephone number and facsimile machine number of the company.
- (c) The commission may approve the proposed change after:
- (1) the election division (or a competent person designated by the commission to act on behalf of the election division) reports to the commission that the vendor has tested the proposed changes on a simulated (mockup) version of the approved system; ~~and~~
 - (2) the vendor supplies the results of this test and makes a similar demonstration to the election division; ~~and~~
 - (3) the vendor files an affidavit with the election division certifying that the proposed change has not yet been marketed, sold, leased, installed, or implemented in Indiana.**

SECTION 138. IC 3-11.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this article, "central location for counting absentee ballots" refers to a location for counting absentee ballots that a county election board ~~in a pilot county~~ must establish under ~~IC 3-11.5-1-3~~. **this article.**

SECTION 139. IC 3-11.5-4-13, AS AMENDED BY P.L.1-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that any of the following applies, the ballots shall be rejected:

- (1) The affidavit is insufficient or that the ballot has not been

endorsed with the initials of:

(A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;

(B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.

(2) The signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct.

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.

(7) The ballot envelope contains more than one (1) ballot of any kind **for the same office or public question.**

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot security envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by any of the following:

(1) The absentee voter board under section 22 of this chapter.

(2) A member of the voter's household.

(3) An individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for the absentee ballot counters to determine that a signature or mark complies with subsection (a)(2).

(e) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

~~(e)~~ (f) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 140. IC 3-11.5-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast.

(b) Before the inspector prepares to mark the poll list to indicate that an absentee ballot cast by the voter has been received by the county election board according to a certificate delivered to the polls under section 1 or section 8 of this chapter, the inspector shall notify the challengers and the pollbook holders that the inspector is about to mark the poll list under this section. The inspector shall provide the challengers and pollbook holders with the name and address of each voter listed in the certificate so that the voter may be challenged under this article.

(c) ~~The precinct election board may hear and determine a challenge under this section as though the ballot was cast by the voter in person.~~ **must be determined using the procedures for counting a provisional ballot under IC 3-11.7.**

SECTION 141. IC 3-11.5-4-22, AS AMENDED BY P.L.14-2000, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) Except as provided in subsection (b), each county election board shall appoint:

- (1) absentee voter boards;
- (2) teams of absentee ballot counters; and
- (3) teams of couriers;

consisting of two (2) voters of the county, one (1) from each of the two

(2) political parties that have appointed members on the county election board.

(b) Notwithstanding subsection (a), a county election board may appoint, by a unanimous vote of the board's members, only one (1) absentee ballot courier if the person appointed is a voter of the county.

(c) An otherwise qualified person is eligible to serve on an absentee voter board or as an absentee ballot counter or a courier unless the person:

- (1) is unable to read, write, and speak the English language;
- (2) has any property bet or wagered on the result of the election;
- (3) is a candidate to be voted for at the election except as an unopposed candidate for precinct committeeman or state convention delegate; or
- (4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

(d) A person who is a candidate to be voted for at the election or who is related to a candidate in a manner that would result in disqualification under subsection (c) may, notwithstanding subsection (c), serve as a member of an absentee voter board if:

- (1) the candidate is seeking nomination or election to an office in an election district that does not consist of the entire county; and**
- (2) the county election board restricts the duties of the person as an absentee voter board member to performing functions that could have no influence on the casting or counting of absentee ballots within the election district.**

SECTION 142. IC 3-11.5-4-23, AS AMENDED BY P.L.38-1999, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) Not later than noon ten (10) days before absentee voting begins under IC 3-11-10-26, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of:

- (1) absentee voter boards;
- (2) teams of absentee ballot counters; and
- (3) teams of couriers;

to be appointed under section 22 of this chapter.

(b) The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before absentee voting begins under IC 3-11-10-26. The county election board shall make the appointments as recommended.

(c) If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county **who comply with section 22 of this chapter.**

SECTION 143. IC 3-11.5-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 144. IC 3-11.5-5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1**, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

SECTION 145. IC 3-11.5-5-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

- (1) the ballots will be used by the state educational institution to conduct election research; and
- (2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 146. IC 3-11.5-6-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 147. IC 3-11.5-6-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. When

permitted under IC 3-10-1-31 **or IC 3-10-1-31.1**, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

SECTION 148. IC 3-11.5-6-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

- (1) the ballots will be used by the state educational institution to conduct election research; and
- (2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 149. IC 3-11.7-1-5, AS AMENDED BY P.L.209-2003, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) Provisional ballots for:

- (1) Electors for President and Vice President of the United States;
- (2) United States Senator;
- (3) United States Representative;
- (4) all state offices; and
- (5) the ratification or rejection of a public question to be voted for by the electorate of the entire state or for the retention of a judge of the Indiana supreme court or the Indiana court of appeals;

shall be prepared and printed under the direction of the election division.

(b) The election division shall have the ballots printed upon certification of the political party tickets, independent candidates, and public questions.

(c) **Except as provided in subsection (e)**, ballots prepared under this section must provide space for the provisional voter to cast a write-in ballot for each office.

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk or the clerk's authorized deputy not later than forty-five (45) days before a general election or twenty-nine (29) days before a special election. The provisional ballots shall be delivered in the same manner that other official ballots are delivered.

(e) Space for write-in voting for an office is not required if there

are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

(f) This subsection applies to the printing of provisional ballots for a general election in which the names of the nominees for President and Vice President of the United States are to be printed on the ballot. The provisional ballots that are prepared and printed under this section must be delivered to the circuit court clerk or the clerk's authorized deputy not later than thirty-eight (38) days before the general election.

SECTION 150. IC 3-11.7-1-6, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) All provisional ballots ~~other than those described in section 5 of this chapter~~ shall be prepared and printed under the direction of each county election board.

(b) After completing the estimate required by section 4 of this chapter, the county election board shall immediately prepare the ballots and have the ballots printed.

(c) **Except as provided in subsection (e),** ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk not later than:

- (1) forty-five (45) days before a general, primary, or municipal election; or
- (2) thirty-two (32) days before a special election.

(e) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

(f) This subsection applies to the printing of provisional ballots for a general election in which the names of the nominees for President and Vice President of the United States are to be printed on the ballot. The provisional ballots that are prepared and printed under this section must be delivered to the circuit court clerk or the clerk's authorized deputy not later than thirty-eight (38) days before the general election.

SECTION 151. IC 3-11.7-3-2, AS ADDED BY P.L.126-2002,

SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An otherwise qualified person is eligible to serve as a counter unless the person:

- (1) is unable to read, write, and speak the English language;
- (2) has any property bet or wagered on the result of the election;
- (3) is a candidate to be voted for at the election **in any part of the county**, except as an unopposed candidate for precinct committeeman or state convention delegate; or
- (4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election **in any part of the county**, except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

SECTION 152. IC 3-11.7-3-5, AS AMENDED BY P.L.209-2003, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. If a county chairman fails to make any recommendations not later than the deadline specified under section 4 of this chapter, the county election board may appoint any voters of the county **who comply with section 2 of this chapter**.

SECTION 153. IC 3-11.7-5-1, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) **Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9**, all provisional ballots must be counted by not later than noon on the Monday following the election.

SECTION 154. IC 3-11.7-5-24, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1**.

SECTION 155. IC 3-11.7-5-26, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1**, the clerk and a county election board member of the

opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

SECTION 156. IC 3-11.7-5-27, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

- (1) the ballots will be used by the state educational institution to conduct election research; and
- (2) the state educational institution may not receive any ballots under this section until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 157. IC 3-12-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1**. However, if the election is contested, then the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During those periods the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest.

(b) When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1**, the clerk and county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

(c) A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of ballots. The contract must provide that:

- (1) the ballots will be used by the state educational institution to conduct election research; and
- (2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 158. IC 3-12-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) After the voting totals have been taken and certified by a precinct election board under section 2(c) of this chapter, the inspector shall:

- (1) seal each automatic tabulating machine used in the precinct;

- (2) place all ballot cards that have been counted in the container provided for that purpose; and

- (3) seal the container into which the ballot cards have been placed;

in the presence of the precinct election board. The automatic tabulating machine may not be moved from the polls after the polls are closed until collected.

(b) The inspector and judge of the opposite political party shall deliver:

- (1) the certification of the vote totals and one (1) copy of the certificate prepared under section 2(c) of this chapter for the circuit court clerk;

- (2) the certificate of the vote totals prepared under section 2(c) of this chapter for the news media;

- (3) the container in which ballot cards have been placed under subsection (a); and

- (4) the unused, uncounted, and defective ballot cards and returns; to the circuit court clerk.

(c) The inspector and judge of the opposite political party shall deliver the certificates and the list of voters to the county election board by midnight on election day. However, if:

- (1) a ballot card voting system failed;

- (2) the failure of the system was reported as required by this title;

- (3) paper ballots were used in place of the system; and

- (4) the use of the paper ballots caused a substantial delay in the vote counting process;

then the certificates, the list of voters, and the tally papers shall be delivered as soon as possible.

(d) Upon delivery of the container to the circuit court clerk under subsection (c), the inspector shall take and subscribe an oath before the clerk stating that the inspector:

- (1) closed and sealed the container in the presence of the judges and poll clerks;

- (2) securely kept the ballot cards in the container;

- (3) did not permit any person to open the container or to otherwise touch or tamper with the ballot cards; and

- (4) has no knowledge of any other person opening the container.

(e) Each oath taken under subsection (d) shall be filed in the circuit

court clerk's office with other election papers.

(f) Upon completion of the counting of the votes by a precinct election board under section 2(c) of this chapter or at a central location, all ballot cards shall be arranged by precincts and kept by the circuit court clerk for the period required by IC 3-10-1-31 **or IC 3-10-1-31.1**. The clerk shall determine the final disposition of all voted ballot cards.

SECTION 159. IC 3-12-4-13, AS AMENDED BY P.L.199-2001, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. After the county election board has tabulated the vote:

- (1) the canvass sheets used by the board; and
- (2) the certificates, poll lists, and tally papers returned by each inspector in the county;

shall be delivered to the circuit court clerk. The clerk shall file and preserve all the material in the clerk's office as provided in IC 3-10-1-31 **or IC 3-10-1-31.1**.

SECTION 160. IC 3-12-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each petitioner shall furnish a cash deposit or file a bond with corporate surety to the approval of the court for the payment of all costs of the recount. The minimum amount of the cash deposit or bond is one hundred dollars (\$100).

(b) This subsection applies if, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) **of the total votes cast for all candidates for the nomination or office**. If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by ten dollars (\$10) for each precinct in excess of ten (10).

(c) This subsection applies if, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) **of the total votes cast for all candidates for the nomination or office**. If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by one hundred dollars (\$100) for each precinct in excess of ten (10).

(d) If a petition is joint, a joint bond may be furnished.

(e) The costs of a recount may include the following:

- (1) Compensation of recount commissioners.
 - (2) Compensation of additional employees required to conduct the recount, including overtime payments to regular employees who are eligible to receive such payments.
 - (3) Postage and telephone charges directly related to the recount.
- (f) The costs of a recount may not include the following:
- (1) General administrative costs.
 - (2) Security.
 - (3) Allowances for meals or lodging.
- (g) If the recount results in a reduction of at least fifty percent (50%) but less than one hundred percent (100%) of the margin of the total certified votes, the petitioner shall receive a refund of that percentage of the unexpended balance. If after a recount, it is determined that a petitioner has been nominated or elected, the deposit or the bond furnished by that petitioner shall be returned to that petitioner in full.
- (h) Any unexpended balance remaining in a deposit after payment of all costs of the recount and the refund, if a refund is made, shall be deposited in the county general fund.

SECTION 161. IC 3-12-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) A contest shall be heard and determined by the court without a jury subject to the Indiana Rules of Trial Procedure.

(b) The court shall determine the issues raised by the petition and answer to the petition.

(c) After hearing and determining a petition alleging that a candidate is ineligible, the court shall declare as elected or nominated the qualified candidate who received the highest number of votes and render judgment accordingly.

(d) If the court finds that:

- (1) a mistake in the printing or distribution of the ballots **used in the election;**
- (2) a mistake in the programming of a voting machine or an electronic voting system; ~~or~~
- (3) a malfunction of a voting machine or an electronic voting system; ~~or~~

(4) the occurrence of a deliberate act or series of actions;
makes it impossible to determine which candidate received the highest number of votes, the court shall order that a special election be

conducted under IC 3-10-8.

(e) The special election shall be conducted in the precincts identified in the petition in which the court determines that:

- (1) ballots containing the printing mistake or distributed by mistake were cast;
- (2) a mistake occurred in the programming of a voting machine or an electronic voting system; ~~or~~
- (3) a voting machine or an electronic voting system malfunctioned; **or**

(4) the deliberate act or series of actions occurred.

SECTION 162. IC 3-12-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The fiscal body of a political subdivision that receives notice under section 3 of this chapter shall resolve the tie vote by electing a person to fill the office ~~at its organizational meeting in January not later than December 31~~ following the election at which the tie vote occurred. The fiscal body shall select one (1) of the candidates who was involved in the tie vote to fill the office. **If a tie vote has occurred for the election of more than one (1) at-large seat on a legislative or fiscal body, the fiscal body shall select the number of individuals necessary to fill each of the at-large seats for which the tie vote occurred.** However, a member of a fiscal body who runs for reelection and is involved in a tie vote may not cast a vote under this section.

(b) The executive of the political subdivision (other than a town) may cast the deciding vote to break a tie vote in a fiscal body acting under this section. The clerk-treasurer of the town may cast the deciding vote to break a tie vote in a town fiscal body acting under this section.

SECTION 163. IC 3-12-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The state recount commission shall conduct recount proceedings under IC 3-12-11 resulting from:

- (1) a presidential primary election;
- (2) the nomination of a candidate to a federal, state, or legislative office in a primary election; or
- (3) an election for a federal, state, or legislative office.

(b) The state recount commission shall conduct contest proceedings under IC 3-12-11 resulting from:

- (1) a presidential primary election;
- (2) the nomination of a candidate to a federal, state, or legislative office in a primary election; or
- (3) an election for a **federal, state, or legislative** office. ~~other than governor or lieutenant governor.~~

SECTION 164. IC 3-12-10-12, AS AMENDED BY P.L.176-1999, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The expenses of a recount conducted by the state recount commission shall be paid from the state recount fund following the commission's determination of whether a full or partial refund of the cash deposit should be granted under IC 3-12-11-10.

(b) The expenses of a contest conducted by the state recount commission shall be paid from the state recount fund.

(c) Notwithstanding subsections (a) and (b), the expenses incurred by a party to a recount or contest for:

- (1) the appearance of an individual; or**
- (2) the copying or production of documents;**

in response to a subpoena approved by the state recount commission shall be borne by that party and are not subject to reimbursement under this chapter.

(d) A person (other than a party to a recount or contest) who claims reimbursement of expenses described by subsection (a) or (b) must submit a claim to the state recount commission not later than noon sixty (60) days after the commission adopts a final order concerning the recount or contest. If the commission approves the claim, the treasurer of state shall issue a warrant to the person in accordance with IC 5-13-5.

~~(d)~~ **(e)** There is appropriated to the state recount fund from the state general fund an amount sufficient for the state recount commission's use in the payment of expenses under this section.

SECTION 165. IC 3-12-11-10, AS AMENDED BY P.L.176-1999, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each petitioner shall furnish a cash deposit for the payment of costs of the recount chargeable to the petitioner. The minimum amount of the cash deposit is one hundred dollars (\$100). The cash deposit shall be deposited in the state recount fund.

(b) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by ten dollars (\$10) for each precinct in excess of ten (10).

(c) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) **of the total votes cast for the nomination or office.**

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) **of the total votes cast for the nomination or office.**

If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by one hundred dollars (\$100) for each precinct in excess of ten (10).

(d) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit furnished by that petitioner shall be returned to that petitioner in full.

(e) Any unexpended balance remaining in a deposit after payment of the costs of the recount shall be returned to the depositor in the following manner:

(1) If the recount results in a reduction of at least fifty percent (50%) but less than one hundred percent (100%) of the margin of

the total certified votes, the petitioner shall receive a refund of that percentage of the unexpended balance.

(2) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit or the bond furnished by that petitioner shall be returned to that petitioner in full.

(3) Any unexpended balance remaining after the provision of subdivision (1) has been satisfied shall be deposited in the state recount fund.

SECTION 166. IC 3-12-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) When a recount is completed by the state recount commission or its designee, the commission shall:

(1) make and sign a certificate showing the total number of votes received in the precincts by each candidate for nomination or election to the office;

(2) state in its certificate the candidate who received the highest number of votes in the precincts for nomination or election to the office and by what plurality; and

(3) file its certificate with the election division.

(b) When a contest proceeding in which a candidate is alleged to be ineligible is completed by the state recount commission or its designee, the commission shall make a final determination concerning the eligibility of the candidate for nomination or election to the office.

(c) If the state recount commission or its designee determines that:

(1) a mistake was made in the printing or distribution of ballots **used in the election;**

(2) **a mistake was made in the programming of a voting machine or an electronic voting system;**

(3) **a voting machine or an electronic voting system malfunctioned; or**

(4) **a deliberate act or series of actions occurred;**

that makes it impossible to determine which candidate received the highest number of votes cast, the commission shall order that a special election be conducted under IC 3-10-8.

(d) The special election ordered under subsection (c) shall be held in the precincts identified in the petition in which the commission determines that: ~~ballots~~

(1) **ballots** containing the printing mistake or ~~(2)~~ distributed by

mistake were cast;

(2) a mistake occurred in the programming of a voting machine or an electronic voting system;

(3) a voting machine or an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred.

SECTION 167. IC 3-12-11-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19.5. As required under 3 U.S.C. 5, any recount or contest proceeding concerning the election of presidential electors must be concluded not later than six (6) days before the ~~third Tuesday in December following the general election at which the electors were elected:~~ **time fixed by federal law for the meeting of the electors.**

SECTION 168. IC 3-13-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The selection of a person as a candidate under this chapter is not effective unless:

(1) the person's written consent is obtained and filed:

(A) in the office in which certificates and petitions of nomination must be filed; and

(B) **not later than** when the certificate is filed; and

(2) the candidate has complied with any requirement under IC 3-8-1-33 to file a statement of economic interests.

SECTION 169. IC 3-13-7-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) This section does not apply to a school board office.**

(b) This section applies to a vacancy in an elected office in a political subdivision:

(1) in which each candidate is required by statute to be placed on the ballot as a nonpartisan candidate for the office; and

(2) for which this article does not otherwise provide a method for filling.

(c) The vacancy shall be filled as follows:

(1) The remaining members of the body shall fill the vacancy by a majority of the votes of the remaining members of the body.

(2) If there are no remaining members of the body, the county executive of the county containing the greatest percentage of

the population of the political subdivision shall fill the vacancy in the manner provided by section 2 of this chapter.

SECTION 170. IC 3-13-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** A vacancy in the office of township trustee:

- (1)** not covered by section 1 of this chapter; **or**
- (2) covered by section 1 of this chapter, but that exists after the thirtieth day after the vacancy occurs;**

shall be filled by the board of commissioners of the county at a regular or special meeting.

(b) The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

SECTION 171. IC 3-13-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. **(a)** A vacancy on the township board of a township:

- (1)** not covered by section 1 of this chapter; **or**
- (2) covered by section 1 of this chapter, but that exists after the thirtieth day after the vacancy occurs;**

shall be filled by the board of commissioners of the county at a regular or special meeting.

(b) The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

SECTION 172. IC 3-13-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. **(a) This section does not apply to the office of a judge.**

(b) Subject to sections 13 through 17 of this chapter, the chief

deputy employee of the office that is vacant assumes the duties of that office for the period of time between when a vacancy occurs and when the office is filled under this chapter in a **circuit**, county, city, ~~or town, office, or in the office of township trustee:~~ **office.**

SECTION 173. IC 3-13-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. **(a) This section does not apply to the office of a judge.**

(b) In accordance with section 12 of this chapter, if a chief deputy employee does not exist in a **circuit or** county office, or the chief deputy employee declines or is ineligible to serve, the board of county commissioners shall appoint, as soon as is reasonably possible, a person to assume the duties of the office until the office is filled under this chapter.

(c) If a circuit contains more than one (1) county, the boards of county commissioners of the counties shall meet in joint session at the county seat of the county that contains the greatest percentage of population of the circuit to appoint an individual under this section.

SECTION 174. IC 3-13-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. In accordance with section 12 of this chapter, if a chief deputy employee does not exist in the office of **clerk or** clerk-treasurer of a city or town, or the chief deputy employee declines or is ineligible to serve, the mayor of the city or the president of the town council shall appoint, as soon as is reasonably possible, a person to assume the duties of the office until the office is filled under this chapter.

SECTION 175. IC 3-13-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. **(a) This section does not apply to the office of a judge or a township board member.**

(b) In accordance with section 12 of this chapter, if a chief deputy employee does not exist in ~~the a township office of township trustee,~~ or the chief deputy employee declines or is ineligible to serve, the chairman of the township board assumes the duties of the township ~~trustee office~~ until the office is filled under this chapter.

SECTION 176. IC 3-14-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A person not authorized by this title who recklessly:

- (1) enters the polls;
- (2) enters within the railing leading from the challenge window or door to the entrance of the polls without having been passed by the challengers or having been sworn in; or
- (3) remains within the polls or within ~~fifty (50) feet of the entrance to the polls chute~~ in violation of IC 3-11-8-15 or IC 3-11-8-16;

commits a Class A misdemeanor.

SECTION 177. IC 3-14-3-16, AS AMENDED BY P.L.66-2003, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) As used in this section, "electioneering" includes expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual.

(b) A person who knowingly does any electioneering:

- (1) on election day within:
 - (A) the polls; or
 - (B) ~~fifty (50) feet of the entrance to the polls; chute;~~ or
- (2) within an area in the office of the circuit court clerk **or a satellite office of the circuit court clerk established under IC 3-11-10-26.3** used by an absentee voter board to permit an individual to cast an absentee ballot;

commits a Class A misdemeanor.

SECTION 178. IC 4-2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The salary of the elected officials of the state is as follows:

- (1) For the governor, ~~the following salary:~~
 - (A) ~~Before January 8, 2001, seventy-seven thousand two hundred dollars (\$77,200) per year.~~
 - (B) ~~After January 7, 2001, ninety-five thousand dollars (\$95,000) per year.~~
- (2) For the lieutenant governor, ~~the following salary:~~
 - (A) ~~Before January 8, 2001, sixty-four thousand dollars (\$64,000) per year.~~
 - (B) ~~After January 7, 2001, seventy-six thousand dollars (\$76,000) per year.~~

However, the lieutenant governor is not entitled to receive per

diem allowance for performance of duties as president of the senate.

(3) For the secretary of state, ~~the following salary:~~

(A) ~~Before January 1, 1999, forty-six thousand dollars (\$46,000) per year.~~

(B) ~~After December 31, 1998, sixty-six thousand dollars (\$66,000) per year.~~

(4) For the auditor of state, ~~the following salary:~~

(A) ~~Before December 1, 1998, forty-six thousand dollars (\$46,000) per year.~~

(B) ~~After November 30, 1998, sixty-six thousand dollars (\$66,000) per year.~~

(5) For the treasurer of state, ~~the following salary:~~

(A) ~~Before February 10, 1999, forty-six thousand dollars (\$46,000) per year.~~

(B) ~~After February 9, 1999, sixty-six thousand dollars (\$66,000) per year.~~

(6) For the attorney general, ~~the following salary:~~

(A) ~~Before January 1, 1999, fifty-nine thousand two hundred dollars (\$59,200) per year.~~

(B) ~~After December 31, 1998, seventy-nine thousand four hundred dollars (\$79,400) per year.~~

(7) For the clerk of the supreme court, ~~the following salary:~~

(A) ~~Before January 1, 1999, thirty-eight thousand dollars (\$38,000) per year.~~

(B) ~~After December 31, 1998, before January 1, 2007, sixty thousand dollars (\$60,000) per year.~~

(8) For the state superintendent of public instruction, ~~the following salary:~~

(A) ~~Before January 1, 1999, sixty-three thousand one hundred dollars (\$63,100) per year.~~

(B) ~~After December 31, 1998, seventy-nine thousand four hundred dollars (\$79,400) per year.~~

SECTION 179. IC 4-2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The bond of the auditor of state shall be fixed at one hundred thousand dollars (\$100,000).

(b) The bond of the secretary of state **shall be fixed** at fifty thousand

dollars (\$50,000).

(c) The bond of the attorney general **shall be fixed** at fifty thousand dollars (\$50,000). ~~and the clerk of the Supreme Court, at ten thousand dollars (\$10,000).~~

SECTION 180. IC 4-2-6-8, AS AMENDED BY P.L.44-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The following persons shall file a written financial disclosure statement:

- (1) The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction.
 - (2) Any candidate for one (1) of the offices in subdivision (1) who is not the holder of one (1) of those offices.
 - (3) Any person who is the appointing authority of an agency.
 - (4) The director of each division of the department of administration.
 - (5) Any purchasing agent within the procurement division of the department of administration.
 - (6) An employee required to do so by rule adopted by the commission.
- (b) The statement shall be filed with the commission as follows:
- (1) Not later than February 1 of every year, in the case of the state officers and employees enumerated in subsection (a).
 - (2) **If the individual has not previously filed under subdivision (1) during the present calendar year and is filing as a candidate for a state office listed in subsection (a)(1),** before filing a declaration of candidacy under IC 3-8-2 **or IC 3-8-4-11**, petition of nomination under IC 3-8-6, or declaration of intent to be a write-in candidate under IC 3-8-2-2.5, or before a certificate of nomination is filed under IC 3-8-7-8, in the case of a candidate for one (1) of the state offices **(unless the statement has already been filed when required under IC 3-8-4-11).**
 - (3) Not later than sixty (60) days after employment or taking office, unless the previous employment or office required the filing of a statement under this section.
 - (4) Not later than thirty (30) days after leaving employment or office, unless the subsequent employment or office requires the filing of a statement under this section.

The statement must be made under affirmation.

(c) The statement shall set forth the following information for the preceding calendar year or, in the case of a state officer or employee who leaves office or employment, the period since a previous statement was filed:

(1) The name and address of any person known:

- (A) to have a business relationship with the agency of the state officer or employee or the office sought by the candidate; and
- (B) from whom the state officer, candidate, or the employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars (\$100).

(2) The location of all real property in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children has an equitable or legal interest either amounting to five thousand dollars (\$5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth or the net worth of that individual's spouse or unemancipated children. An individual's primary personal residence need not be listed, unless it also serves as income property.

(3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse.

(4) The following information about any sole proprietorship owned or professional practice operated by the state officer, candidate, or the employee or that individual's spouse:

(A) The name of the sole proprietorship or professional practice.

(B) The nature of the business.

(C) Whether any clients are known to have had a business relationship with the agency of the state officer or employee or the office sought by the candidate.

(D) The name of any client or customer from whom the state officer, candidate, employee, or that individual's spouse received more than thirty-three percent (33%) of the state officer's, candidate's, employee's, or that individual's spouse's nonstate income in a year.

(5) The name of any partnership of which the state officer, candidate, or the employee or that individual's spouse is a member and the nature of the partnership's business.

(6) The name of any corporation (other than a church) of which the state officer, candidate, or the employee or that individual's spouse is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars (\$10,000). A time or demand deposit in a financial institution or insurance policy need not be listed.

(8) The name and address of the most recent former employer.

(9) Additional information that the person making the disclosure chooses to include.

Any such state officer, candidate, or employee may file an amended statement upon discovery of additional information required to be reported.

(d) A person who:

(1) fails to file a statement required by rule or this section in a timely manner; or

(2) files a deficient statement;

upon a majority vote of the commission, is subject to a civil penalty at a rate of not more than ten dollars (\$10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars (\$1,000).

(e) A person who intentionally or knowingly files a false statement commits a Class A infraction.

SECTION 181. IC 5-6-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The secretary of state, the auditor of state, the treasurer of state, ~~the clerk of the supreme court~~, the sheriff of the supreme court, and every clerk of the circuit court may appoint deputies, when necessary or when required, if provision shall have been made for paying such deputies for their services from the funds of the state or of the county or from fees received for their services.

(b) Any such officer may require any deputy so appointed to give

bond, in such amount as may be prescribed by law or as may be fixed by such officer, conditioned for the proper and faithful discharge of all ~~of his~~ official duties as such deputy, and for the safe accounting of all funds received by ~~him~~ **the deputy** or entrusted to ~~his~~ **the deputy's** care, control, or management.

SECTION 182. IC 5-8-3.5-1, AS AMENDED BY P.L.26-2000, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) An officer who wants to resign shall give written notice of the officer's resignation as follows:

(1) The governor and lieutenant governor shall notify the principal clerk of the house of representatives and the principal secretary of the senate to act in accordance with Article 5, Section 10 of the Constitution of the State of Indiana. The clerk and the secretary shall file a copy of the notice with the office of the secretary of state.

(2) A member of the general assembly shall notify the following, whichever applies:

(A) A member of the senate shall notify the president pro tempore of the senate.

(B) A member of the house of representatives shall notify the speaker of the house of representatives.

(3) The following officers commissioned by the governor under IC 4-3-1-5 shall notify the governor:

(A) An elector or alternate elector for President and Vice President of the United States.

(B) The secretary of state, auditor of state, treasurer of state, superintendent of public instruction, ~~or~~ attorney general. ~~or clerk of the supreme court.~~

(C) An officer elected by the general assembly, the senate, or the house of representatives.

(D) A justice of the Indiana supreme court, judge of the Indiana court of appeals, or judge of the Indiana tax court.

(E) A judge of a circuit, city, county, probate, superior, town, or township small claims court.

(F) A prosecuting attorney.

(G) A circuit court clerk.

(H) A county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor.

(4) An officer of a political subdivision (as defined by IC 36-1-2-13) other than an officer listed in subdivision (3) shall notify the circuit court clerk of the county containing the largest percentage of population of the political subdivision.

(5) An officer not listed in subdivisions (1) through (4) shall notify the person or entity from whom the officer received the officer's appointment.

(b) A person or an entity that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, not later than seventy-two (72) hours after receipt of the notice of resignation, give notice of the vacancy to the person or entity that has the power to:

(1) fill the vacancy; or

(2) call a caucus for the purpose of filling the vacancy.

SECTION 183. IC 5-14-3-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. (a) As used in this section, "state agency" has the meaning set forth in IC 4-13-1-1. The term does not include the office of the following elected state officials:

(1) Secretary of state.

(2) Auditor.

(3) Treasurer.

(4) Attorney general.

(5) Superintendent of public instruction.

~~(6) Clerk of the Supreme Court.~~

However, each state office described in subdivisions (1) through ~~(6)~~ **(5) and the judicial department of state government** may use the computer gateway administered by the intelnet commission established under IC 5-21-2, subject to the requirements of this section.

(b) As an additional means of inspecting and copying public records, a state agency may provide enhanced access to public records maintained by the state agency.

(c) If the state agency has entered into a contract with a third party under which the state agency provides enhanced access to the person through the third party's computer gateway or otherwise, all of the following apply to the contract:

(1) The contract between the state agency and the third party must provide for the protection of public records in accordance with subsection (d).

(2) The contract between the state agency and the third party may provide for the payment of a reasonable fee to the state agency by either:

- (A) the third party; or
- (B) the person.

(d) A contract required by this section must provide that the person and the third party will not engage in the following:

- (1) Unauthorized enhanced access to public records.
- (2) Unauthorized alteration of public records.
- (3) Disclosure of confidential public records.

(e) A state agency shall provide enhanced access to public records only through the computer gateway administered by the intelnet commission established under IC 5-21-2, except as permitted by the data process oversight commission established under IC 4-23-16-1.

SECTION 184. IC 6-1.1-19-4.5, AS AMENDED BY P.L.66-2003, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) With respect to every appeal petition that is delivered to the tax control board by the department of local government finance under section 4.1 of this chapter and that includes a request for emergency financial relief (except an appeal petition described in section 4.7 of this chapter), the tax control board shall, after having made the study of the appeal petition and related materials that the tax control board considers necessary, make an appropriate recommendation to the department of local government finance. If the appeal petition requests an excessive tax levy under subsection (c), the tax control board shall expedite the board's review as necessary to permit the referendum to be conducted without a special election. In respect of the appeal petition, the tax control board may make to the department of local government finance any of the recommendations described in section 4.4(a) of this chapter, subject to the limitations described in section 4.4(b) of this chapter.

(b) In addition, if the tax control board concludes that the appellant school corporation cannot, in the ensuing calendar year, carry out the public educational duty committed to the appellant school corporation by law if, for the ensuing calendar year, the appellant school corporation does not receive emergency financial relief, the tax control board may recommend to the department of local government finance that the order of the county board of tax adjustment or the county

auditor in respect of the budget, tax levy, or tax rate of the appellant school corporation be approved, or disapproved and modified, as specified in the tax control board's recommendation and that the appellant school corporation receive emergency financial relief from the state, on terms to be specified by the tax control board in the board's recommendation, in the form of:

- (1) a grant or grants from any funds of the state that are available for such a purpose;
- (2) a loan or loans from any funds of the state that are available for such a purpose;
- (3) permission to the appellant school corporation to borrow funds from a source other than the state or assistance in obtaining the loan;
- (4) an advance or advances of funds that will become payable to the appellant school corporation under any law providing for the payment of state funds to school corporations;
- (5) permission to the appellant school corporation to:
 - (A) cancel any unpaid obligation of the appellant school corporation's general fund to the appellant school corporation's cumulative building fund; or
 - (B) use, for general fund purposes, any unobligated balance in the appellant school corporation's cumulative building fund and the proceeds of any levy made or to be made by the appellant school corporation for the appellant school corporation's cumulative building fund;
- (6) permission to use, for general fund purposes, any unobligated balance in any construction fund, including any unobligated proceeds of a sale of the school corporation's general obligation bonds; or
- (7) a combination of the emergency financial relief described in subdivisions (1) through (6).

(c) In addition to, or in lieu of, any recommendation that the tax control board may make under this section, the tax control board may recommend that the appellant school corporation be permitted to make a referendum tax levy for the ensuing calendar year under this subsection. The recommendation may not be put into effect until a majority of the individuals who vote in a referendum that is conducted in accordance with the following requirements approves the appellant

school corporation's making a referendum tax levy for the ensuing calendar year:

(1) Whenever:

(A) the tax control board recommends to the department of local government finance that the appellant school corporation be permitted to make a referendum tax levy for the ensuing calendar year if a majority of the individuals voting in a referendum held in the appellant school corporation approves the appellant school corporation's making a referendum tax levy;

(B) the department of local government finance gives the board's written approval of the recommendation; and

(C) the appellant school corporation requests that the tax control board take the steps necessary to cause a referendum to be conducted;

the tax control board shall proceed in accordance with this subsection.

(2) The question to be submitted to the voters in the referendum must read as follows:

"For the __ (insert number) calendar year or years immediately following the holding of the referendum, shall the school corporation impose a property tax rate that does not exceed _____ (insert amount) cents (\$0. __) (insert amount) on each one hundred dollars (\$100) of assessed valuation and that is in addition to the school corporation's normal tax rate?".

The voters in a referendum may not approve a referendum tax levy that is imposed for more than seven (7) years. However, a referendum tax levy may be reimposed or extended under this subsection.

(3) The tax control board shall act under IC 3-10-9-3 to certify the question to be voted on at the referendum to the county election board of each county in which any part of the appellant school corporation lies. Each county clerk shall, upon receiving the question certified by the tax control board, call a meeting of the county election board to make arrangements for the referendum. The referendum shall be held in the next primary or general election in which **all the registered voters who are** residents of the appellant school corporation are entitled to vote after

certification of the question under IC 3-10-9-3. However, if the referendum would be held at a primary or general election more than six (6) months after certification by the tax control board, the referendum shall be held at a special election to be conducted not less than ninety (90) days after the question is certified to the circuit court clerk or clerks by the tax control board. The appellant school corporation shall advise each affected county election board of the date on which the appellant school corporation desires that the referendum be held, and, if practicable, the referendum shall be held on the day specified by the appellant school corporation. The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum. **If a primary election, general election, or special election is held during the sixty (60) days preceding or following the special election described in this subdivision and is held in an election district that includes some, but not all, of the school corporation, the county election board may also adopt orders to specify when the registration period for the elections cease and resume under IC 3-7-13-10.** Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1. If the referendum is not conducted at a primary or general election, the appellant school corporation in which the referendum is to be held shall pay all of the costs of holding the referendum.

(4) Each county election board shall cause the question certified to the circuit court clerk by the tax control board to be placed on the ballot in the form prescribed by IC 3-10-9-4. The county election board shall also cause an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum is to be held.

(5) The individuals entitled to vote in the referendum are all of the registered voters resident in the appellant school corporation.

(6) Each precinct election board shall count the affirmative votes and the negative votes cast in the referendum and shall certify those two (2) totals to the county election board of each county in which the referendum is held. The circuit court clerk of each

county shall, immediately after the votes cast in the referendum have been counted, certify the results of the referendum to the tax control board. Upon receiving the certification of all of the votes cast in the referendum, the tax control board shall promptly certify the result of the referendum to the department of local government finance. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the department of local government finance, upon being notified in the manner described in this subsection of the result of the referendum, shall take prompt and appropriate steps to notify the appellant school corporation that the appellant school corporation is authorized to collect, for the calendar year that next follows the calendar year in which the referendum is held, a referendum tax levy not greater than the amount approved in the referendum. The referendum tax levy may be imposed for the number of calendar years approved by the voters following the referendum for the school corporation in which the referendum is held. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the school corporation shall establish a referendum tax levy fund under IC 21-2-11.6. A school corporation's referendum tax levy may not be considered in the determination of the school corporation's state tuition support under IC 21-3-1.7 or the determination of the school corporation's maximum general fund tax levy under this chapter and IC 21-3-1.7. If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question, the appellant school corporation may not make any tax levy for its general fund other than a normal tax levy, and another referendum under this subsection may not be held for a period of one (1) year after the date of the referendum.

(d) With respect to any school corporation to which a loan or advance of state funds is made under this section, or for which such a loan or an advance is recommended, for purposes other than the purpose specified in section 4.7 of this chapter, the tax control board may recommend to the department of local government finance that the school corporation be authorized, for a specified calendar year, and solely for the purpose of enabling the school corporation to repay the loan or advance, to collect an excessive tax levy. A recommendation

under this subsection must specify the amount of the recommended excessive tax levy. Upon receiving the recommendation from the tax control board, and without any other proceeding, the department of local government finance may authorize the school corporation, for a specified calendar year, to make an excessive tax levy in accordance with the recommendation of the tax control board or in accordance with a modification of the recommendation that the department of local government finance determines is proper. Whenever the department of local government finance exercises the power given to the department of local government finance under this subsection, the department of local government finance shall, in the department's order to the affected school corporation, specify the amount of the authorized excessive tax levy and take appropriate steps to ensure that so much of the proceeds of the excessive tax levy as should be used for loan repayment purposes is not used for any other purpose. The department of local government finance may not exercise the power described in this subsection to authorize any school corporation to collect an excessive tax levy for more than one (1) calendar year in any period of four (4) consecutive calendar years.

SECTION 185. IC 9-14-3-5, AS AMENDED BY P.L.261-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), ~~(c), or (d), or (e)~~, the bureau shall prepare and deliver information on titles, registrations, and licenses and permits upon the request of any person. All requests must be submitted in writing to the bureau and, unless exempted under IC 9-29, must be accompanied by the payment of the fee prescribed in IC 9-29-2-2.

(b) The bureau shall not disclose:

- (1) the Social Security number;
- (2) the federal identification number;
- (3) the driver's license number;
- (4) the digital image of the driver's license applicant;
- (5) a reproduction of the signature secured under IC 9-24-9-1 or IC 9-24-16-3; or
- (6) medical or disability information;

of any person except **as provided in subsection (c).**

(c) The bureau may disclose any information listed in subsection (b):

- (1) to a law enforcement officer; ~~or~~
- (2) to an agent or a designee of the department of state revenue;
~~or~~
- (3) for uses permitted under IC 9-14-3.5-10(1), IC 9-14-3.5-10(4), IC 9-14-3.5-10(6), and IC 9-14-3.5-10(9); ~~or~~
- (4) for voter registration and election purposes required under IC 3-7 or IC 9-24-2.5.**

~~(c)~~ **(d)** As provided under 42 U.S.C. 1973gg-3(b), the commission may not disclose any information concerning the failure of an applicant for a motor vehicle driver's license to sign a voter registration application, except as authorized under IC 3-7-14.

~~(d)~~ **(e)** The commission may not disclose any information concerning the failure of an applicant for a title, registration, license, or permit (other than a motor vehicle license described under subsection ~~(c)~~ **(d)**) to sign a voter registration application, except as authorized under IC 3-7-14.

SECTION 186. IC 9-24-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. (a) This section applies after December 31, 2005.**

(b) The standards set forth in IC 3-5-5 to determine the residence of an individual applying to become a voter apply to the determination of the residence of an individual applying for a license under this article.

(c) This section does not prevent the commission from issuing a license under this article to an individual who is:

- (1) not required by this article to reside in Indiana to receive the license; and**
- (2) otherwise qualified to receive the license.**

SECTION 187. IC 20-4-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18. (a) Members of the metropolitan board of education shall be elected by the registered voters of the metropolitan school district at the primary elections held biennially in the state commencing with the next primary election which is held more than sixty (60) days after the creation of the metropolitan school district as provided ~~herein~~ in this chapter.** Nominations for each member of the board of education shall be made by a petition signed by the nominee and by ten (10) registered voters

residing in the same board member district as the nominee. Such petition shall be filed not earlier than the date on which a petition of nomination may first be filed under IC 3-8-6-10 and not later than noon on the last date provided by IC 3-8-2-4 for the filing of a declaration of candidacy for the primary election with the clerk of the circuit court in each county in which such metropolitan school district is located.

(b) Nominees for school board members shall be listed on the primary election ballot in the form prescribed by IC 3-10-1-19, by board member districts without party designation. Such ballot shall state ~~thereon~~ the number of board members to be voted upon and the maximum number which may be elected from each board member district in compliance with section 15 of this chapter. No ballot shall be valid where more than such maximum number are voted upon from any such board member district. The election boards in the various precincts and in the county or counties serving at each primary election shall conduct the election for school board members. Each registered voter may vote in such school board election without otherwise voting in the primary election.

(c) Voting and tabulation of votes shall be conducted in the same manner as voting and tabulation in primary elections are conducted, and the candidates having the greatest number of votes shall be elected. If more than the maximum number which may be elected from any board member district as provided in section 15 of this chapter are among those having the greatest number of votes, the lowest of those candidates from such board member district in excess of such maximum number shall be eliminated in determining the candidates who are elected. In the event of a tie vote for any of said candidates, the judge of the circuit court in the county where the majority of the registered voters of the metropolitan school district reside shall select one (1) of said candidates who shall be declared and certified elected.

(d) If at any time after the first board member election there shall occur a vacancy on the board for any reason including ~~but not limited to~~ the failure of the sufficient number of petitions for candidates being filed, and whether the vacating member was elected or appointed, the remaining members of the metropolitan board of education, whether or not a majority of the board, shall by a majority vote fill such vacancy by appointing a person from the board member district from which the person who vacated the board membership was elected, or if such

person was appointed, the board member district from which the last elected predecessor of such person was elected. In the event of a tie vote among the remaining members of the board or their failure to act within thirty (30) days after any such vacancy occurs, it shall be the duty of the judge of the circuit court in the county where the majority of registered voters of the metropolitan school district reside to make such appointment. A successor to such appointive board member shall be elected at the next primary election which is held more than sixty (60) days after any elected board member vacates membership on the board; or at the primary election held immediately prior to the end of the term for which such vacating member was elected, whichever is sooner. Unless such successor takes office at the end of the term of such vacating member, the member shall serve only for the balance of such term. In any election of a successor board member to fill a vacancy for a two (2) year balance of a term, nominating petitions for school board membership candidacy need not be filed for or with reference to the vacancy. **However, as required by IC 3-11-2-14.5, candidates for at-large seats shall be distinguished on the ballot from candidates for district seats. If there is more than one (1) at-large seat on the ballot due to this vacancy,** the elected candidate who receives the lowest number of votes at the election at which such successor is elected shall serve for such two (2) year term.

(e) At the first primary election wherein members of the metropolitan board of education shall be elected under this section, a simple majority of the elected candidates, consisting of those elected candidates who receive the highest number of votes, shall be elected for four (4) year terms and the balance of the elected candidates, consisting of those who received the lowest number of votes, shall be elected for two (2) year terms. All candidates for membership on the metropolitan board of education shall be voted upon by the voters of the entire district, shall be elected for four (4) year terms after the first election and shall take office and assume their duties July 1 following their election.

SECTION 188. IC 33-15-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **The chief justice of the supreme court shall appoint** a clerk of the supreme court. ~~shall be elected under IC 3-10-2-7 by the voters of the state. The term of office of the clerk is four (4) years, beginning January 1 following the~~

~~individual's election.~~ **The individual appointed serves at the pleasure of the chief justice of the supreme court.**

(b) The clerk shall execute a bond in ~~the sum of two thousand dollars (\$2,000);~~ **an amount directed by the supreme court.**

(c) **The clerk shall be paid a salary determined by the supreme court.**

(d) **In addition to the powers and duties prescribed by law, the clerk has the powers and duties determined by the supreme court.**

SECTION 189. IC 33-15-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~Such~~ **The clerk at the expiration of his term;** shall hand over to ~~his~~ **the clerk's** successor all the books and papers of ~~his~~ **the** office.

SECTION 190. IC 33-24-4-1, AS ADDED BY SEA 263-2004, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **The chief justice of the supreme court shall appoint** a clerk of the supreme court. ~~shall be elected under IC 3-10-2-7 by the voters of the state. The term of office of the clerk is four (4) years; beginning January 1 following the individual's election.~~ **The individual appointed serves at the pleasure of the chief justice of the supreme court.**

(b) The clerk shall execute a bond in ~~the sum of two thousand dollars (\$2,000);~~ **an amount directed by the supreme court.**

(c) **The clerk shall be paid a salary determined by the supreme court.**

(d) **In addition to the powers and duties prescribed by law, the clerk has the powers and duties determined by the supreme court.**

SECTION 191. IC 33-24-4-7, AS ADDED BY SEA 263-2004, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~At the expiration of the term of office of~~ The clerk of the supreme court ~~the clerk~~ shall deliver to the clerk's successor all the books and papers of the clerk's office.

SECTION 192. IC 36-2-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) To be eligible for election to the executive, a person must meet the qualifications prescribed by IC 3-8-1-21.

(b) A member of the executive must reside within:

(1) the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) the district from which the member was elected.

(c) If the person does not remain a resident of the county and district after taking office, the person forfeits the office. The county fiscal body shall declare the office vacant whenever a member of the executive forfeits office under this subsection.

(d) In a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000);

one (1) member of the executive shall be elected by the voters of each of the three (3) single-member districts established under section 4(b) or 4(c) of this chapter. In other counties, all three (3) members of the executive shall be elected by the voters of the whole county.

~~(e) A member of the executive who wants to resign must send written notice to the president of the county fiscal body. The fiscal body shall then declare the member's office vacant.~~

SECTION 193. IC 36-2-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A deputy appointed under this chapter may be required to give a bond, in accordance with IC 5-4-1, for the proper discharge of ~~his~~ **the deputy's** duties. ~~as a deputy.~~

(b) If required under IC 5-4-1-1, a deputy appointed under this chapter shall take the oath required of the officer who appointed ~~him~~ **the deputy.**

SECTION 194. IC 3-10-1-14 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 195. IC 3-8-1-11.5 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 196. THE FOLLOWING ARE REPEALED [EFFECTIVE DECEMBER 1, 2004]: IC 3-11-2-1; IC 3-11.7-1-5.

SECTION 197. [EFFECTIVE JULY 1, 2004] **(a) This section applies to a referendum conducted under IC 6-1.1-19-4.5 at a primary or general election.**

(b) Notwithstanding IC 6-1.1-19-4.5(c)(6), if a majority of the persons who voted in the referendum did not vote "yes" on the referendum question, another referendum under IC 6-1.1-19-4.5 may not be held before the earlier of:

- (1) the next primary election or general election that occurs at least eleven (11) months after the date of the referendum; or
- (2) one (1) year after the date of the referendum.

(c) This SECTION expires June 30, 2006.

SECTION 198. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 33-15-1-1 or IC 33-24-4-1, both as amended by this act, an individual who is appointed by the governor to fill a vacancy in the office of clerk of the supreme court is entitled to hold the office before January 1, 2007, unless the individual resigns or is removed from office as provided by law.

(b) Notwithstanding the repeal of IC 3-8-1-11.5 by this act, an individual appointed by the governor to the office of clerk of the supreme court must satisfy the requirements of IC 3-8-1-11.5 before its repeal.

(c) An individual appointed by the governor to the office of clerk of the supreme court must execute a bond in the amount of ten thousand dollars (\$10,000).

(d) Notwithstanding IC 5-6-1-1, as amended by this act, the clerk of the supreme court may appoint deputies and require the individuals appointed as deputies to post bond as provided by law in effect at the time any appointment is made.

(e) Notwithstanding IC 5-8-3.5-1, as amended by this act, an individual who wants to resign the office of clerk of the supreme court must resign as provided by law in effect at the time the individual wants to resign the office.

(f) Notwithstanding IC 5-14-3-3.5, as amended by this act:

- (1) "state agency" does not include the office of the clerk of the supreme court; and**
- (2) the clerk of the supreme court may use the computer gateway administered by the intelnet commission established under IC 5-21-2, subject to the requirements of IC 5-14-3-3.5, as in effect after June 30, 2004.**

(g) This SECTION expires January 1, 2007.

SECTION 199. P.L.209-2003, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 7, 2003 (RETROACTIVE)]: SECTION 205. (a) The definitions in IC 3-5-2 apply throughout this SECTION.

(b) Not later than ~~July 1,~~ December 31, 2003, the commission shall act under IC 3-11-4-5.1 to approve absentee ballot application forms

that include a notice that certain voters who registered by mail are required to provide additional personal identification before voting an absentee ballot by mail.

(c) Notwithstanding IC 3-5-4-8, an absentee ballot application form approved by the commission before December 31, 2003, that does not comply with subsection (b) may not be accepted for filing with a county election board after December 31, 2003.

(d) This SECTION expires December 31, 2004.

SECTION 200. P.L.209-2003, SECTION 214, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 214. (a) The definitions set forth in IC 3-5-2 apply to this SECTION.

(b) Subject to subsection (d), a voting machine system may not be used in an election in Indiana after December 31, 2003.

(c) Subject to subsection (e), a punch card voting system may not be used in an election in Indiana after December 31, 2003.

(d) Notwithstanding subsection (b), a voting machine system may be used in an election in Indiana after December 31, 2003, and before January 1, 2006, if not later than December 31, 2003, the secretary of state with the consent of the co-directors of the election division certifies to the federal Administrator of General Services under Section 102(a)(3)(B) of HAVA (42 U.S.C. 15302) that the state cannot replace all voting machine systems in Indiana before January 1, 2004.

(e) Notwithstanding subsection (c), a punch card voting system may be used in an election in Indiana after December 31, 2003, and before January 1, 2006, if not later than December 31, 2003, the secretary of state with the consent of the co-directors of the election division certifies to the federal Administrator of General Services under Section 102(a)(3)(B) of HAVA (42 U.S.C. 15302) that the state cannot replace all punch card voting systems in Indiana before January 1, 2004.

(f) Notwithstanding any other statute, a voting machine system or a punch card voting system may not be marketed in Indiana.

(g) Notwithstanding IC 3-11-5, IC 3-11-7, IC 3-11-7.5, and IC 3-11-15, the approval or certification of a voting system issued before January 1, 2005, expires October 1, 2005. If a vendor applied for certification of the voting system after January 1, 2004, and applies for recertification of the voting system after January 1, 2005, the application fee under IC 3-11-15-4 is waived if the hardware, software, and firmware of the system is unchanged in

the system submitted for recertification under this subsection.

(h) This SECTION expires January 1, 2006.

SECTION 201. [EFFECTIVE UPON PASSAGE] (a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.

(b) Notwithstanding P.L.209-2003, SECTION 212 (expired December 31, 2003), the governor's notice before May 1, 2003, to the federal Administrator of General Services that the state of Indiana intends to use payments under Section 101 of HAVA (42 U.S.C. 15301) in accordance with Section 101 of HAVA is legalized.

(c) Notwithstanding P.L.209-2003, SECTION 213 (expired December 31, 2003), the governor's notice before May 1, 2003, to the federal Administrator of General Services under Section 102(b) of HAVA (42 U.S.C. 15302) in accordance with Section 102 of HAVA is legalized.

(d) Notwithstanding P.L.209-2003, SECTION 216 (expired December 31, 2003), not later than July 1, 2004, the secretary of state, with the consent of the co-directors of the election division, shall file a statement with the federal Election Assistance Commission certifying that the state is in compliance with the requirements referred to in Section 253(b) of HAVA (42 U.S.C. 15403). The statement must be in the form authorized by Section 253 of HAVA.

(e) This SECTION expires July 1, 2005.

SECTION 202. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: (a) This SECTION applies to an individual:

- (1) who was elected during November 2003 to an office of a political subdivision; and
- (2) to whom IC 5-4-1-1.2 applies.

(b) Notwithstanding the time limits under IC 5-4-1-1.2(c), an individual's deposit before March 1, 2004, of the oath required by IC 5-4-1-1 with the office listed in IC 5-4-1-4 is legalized, and IC 5-4-1-1.2(d) does not apply.

(c) This SECTION expires July 1, 2004.

SECTION 203. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 3-11.7-1-6, as amended by this act, all provisional ballots other than those described in IC 3-11.7-1-5 shall be prepared and printed under the direction of each county election board.

(b) This SECTION expires December 1, 2004.

SECTION 204. An emergency is declared for this act.

P.L.15-2004

[S.83. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 31-14-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** A noncustodial parent is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation might:

- (1) endanger the child's physical health and well-being; or
- (2) significantly impair the child's emotional development.

(b) The court may interview the child in chambers to assist the court in determining the child's perception of whether visitation by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development.

(c) The court may permit counsel to be present at the interview.

If counsel is present:

- (1) a record may be made of the interview; and**
- (2) the interview may be made part of the record for purposes of appeal.**

SECTION 2. IC 31-17-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development.

(b) The court may interview the child in chambers to assist the court in determining the child's perception of whether visitation by the noncustodial parent might endanger the child's physical health or significantly impair the child's emotional development.

(c) The court may permit counsel to be present at the interview.

If counsel is present:

- (1) a record may be made of the interview; and**

(2) the interview may be made part of the record for purposes of appeal.

SECTION 3. IC 31-17-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The court may grant visitation rights if the court determines that visitation rights are in the best interests of the child.

(b) In determining the best interests of the child under this section, the court may consider whether a grandparent has had or has attempted to have meaningful contact with the child.

(c) The court may interview the child in chambers to assist the court in determining the child's perception of whether visitation by a grandparent is in the best interests of the child.

(d) The court may permit counsel to be present at the interview.

If counsel is present:

(1) a record may be made of the interview; and

(2) the interview may be made part of the record for purposes of appeal.

SECTION 4. An emergency is declared for this act.

P.L.16-2004

[S.133. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-296.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 296.3. "Psychiatric advance directive", for purposes of IC 16-36-1.5 and IC 16-36-1.7, has the meaning set forth in IC 16-36-1.7-1.**

SECTION 2. IC 16-36-1.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. **(a) This section applies to a patient who:**

(1) receives mental health services; and

(2) is mentally incompetent.

(b) A patient described in subsection (a) shall provide consent for mental health treatment through the informed consent of one (1) of the following:

(1) The patient's legal guardian or other court appointed representative.

(2) The patient's health care representative under IC 16-36-1.

(3) An attorney in fact for health care appointed under IC 30-5-5-16.

(4) The patient's health care representative acting in accordance with the patient's psychiatric advance directive as expressed in a psychiatric advance directive executed under IC 16-36-1.7.

SECTION 3. IC 16-36-1.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 1.7. Psychiatric Advance Directives

Sec. 0.5. This chapter does not apply when an individual is detained or committed under IC 12-26-4, IC 12-26-5, IC 12-26-6, or IC 12-26-7.

Sec. 1. As used in this chapter, "psychiatric advance directive" means a written instrument that expresses the individual's preference and consent to the administration of treatment measures for a specific diagnosis for the care and treatment of the individual's mental illness during subsequent periods of incapacity.

Sec. 2. (a) An individual who has capacity may execute a psychiatric advance directive.

(b) The psychiatric advance directive must include the following:

(1) The name of the individual entering into the psychiatric advance directive.

(2) The name of the treatment program and the sponsoring facility or institution in which the individual is enrolled, if applicable.

(3) The name, address, and telephone number of:

(A) the individual's treating physician; or

(B) other treating mental health personnel.

(4) The signature of the individual entering into the

psychiatric advance directive.

(5) The date on which the individual signed the psychiatric advance directive.

(6) The name, address, and telephone number of the designated health care representative.

(7) The signature of the psychiatrist treating the individual entering into the psychiatric advance directive, attesting to:

(A) the appropriateness of the individual's preferences stated in the psychiatric advance directive; and

(B) the capacity of the individual entering into the psychiatric advance directive.

(c) The psychiatric advance directive must comply with and is subject to the requirements and provisions of IC 16-36-1.

Sec. 3. An individual may specify in the psychiatric advance directive treatment measures, including:

(1) admission to an inpatient setting;

(2) the administration of prescribed medication:

(A) orally; or

(B) by injection;

(3) physical restraint;

(4) seclusion;

(5) electroconvulsive therapy; or

(6) mental health counseling;

for the care and treatment of the individual's mental illness during a period when the individual is incapacitated.

Sec. 4. A person who:

(1) treats an individual who has executed a psychiatric advance directive; and

(2) is not aware that the individual being treated has executed a valid psychiatric advance directive;

is not subject to civil or criminal liability based on an allegation that the person did not comply with the psychiatric advance directive.

Sec. 5. This chapter does not preclude an attending physician from treating the patient in a manner that is of the best interest of the patient or another individual.

SECTION 4. IC 34-30-2-71.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 71.5. IC 16-36-1.7-4 (Concerning

a person who is not aware of, and does not comply with, a psychiatric advance directive).

P.L.17-2004

[S.188. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. "Ambulatory outpatient surgical center", for purposes of IC 16-21 **and IC 16-38-2**, means a public or private institution that meets the following conditions:

- (1) Is established, equipped, and operated primarily for the purpose of performing surgical procedures and services.
- (2) Is operated under the supervision of at least one (1) licensed physician or under the supervision of the governing board of the hospital if the center is affiliated with a hospital.
- (3) Permits a surgical procedure to be performed only by a physician, dentist, or podiatrist who meets the following conditions:
 - (A) Is qualified by education and training to perform the surgical procedure.
 - (B) Is legally authorized to perform the procedure.
 - (C) Is privileged to perform surgical procedures in at least one (1) hospital within the county or an Indiana county adjacent to the county in which the ambulatory outpatient surgical center is located.
 - (D) Is admitted to the open staff of the ambulatory outpatient surgical center.
- (4) Requires that a licensed physician with specialized training or experience in the administration of an anesthetic supervise the administration of the anesthetic to a patient and remain present in

the facility during the surgical procedure, except when only a local infiltration anesthetic is administered.

(5) Provides at least one (1) operating room and, if anesthetics other than local infiltration anesthetics are administered, at least one (1) postanesthesia recovery room.

(6) Is equipped to perform diagnostic x-ray and laboratory examinations required in connection with any surgery performed.

(7) Does not provide accommodations for patient stays of longer than twenty-four (24) hours.

(8) Provides full-time services of registered and licensed nurses for the professional care of the patients in the postanesthesia recovery room.

(9) Has available the necessary equipment and trained personnel to handle foreseeable emergencies such as a defibrillator for cardiac arrest, a tracheotomy set for airway obstructions, and a blood bank or other blood supply.

(10) Maintains a written agreement with at least one (1) hospital for immediate acceptance of patients who develop complications or require postoperative confinement.

(11) Provides for the periodic review of the center and the center's operations by a committee of at least three (3) licensed physicians having no financial connections with the center.

(12) Maintains adequate medical records for each patient.

(13) Meets all additional minimum requirements as established by the state department for building and equipment requirements.

(14) Meets the rules and other requirements established by the state department for the health, safety, and welfare of the patients.

SECTION 2. IC 16-38-2-1, AS AMENDED BY P.L.93-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The state department shall establish a cancer registry for the purpose of:

(1) recording:

(A) all cases of malignant disease; and

(B) other tumors and precancerous diseases required to be reported by:

(i) federal law or federal regulation; or

(ii) the National Program of Cancer Registries;

that are diagnosed or treated in Indiana; and

(2) compiling necessary and appropriate information concerning those cases, as determined by the state department; in order to conduct epidemiologic surveys of cancer and to apply appropriate preventive and control measures.

(b) The department may contract for the collection and analysis of, and the research related to, the epidemiologic data compiled under this chapter.

SECTION 3. IC 16-38-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The following persons shall report **to the cancer registry** each confirmed case of cancer ~~to the cancer registry~~ **and other tumors and precancerous diseases required to be recorded under section 1 of this chapter:**

- (1) Physicians.
- (2) Dentists.
- (3) Hospitals.
- (4) Medical laboratories.
- (5) Ambulatory outpatient surgical centers.**
- (6) Health facilities.**

(b) A person required to report information to the state cancer registry under this section may utilize, when available:

- (1) information submitted to any other public or private cancer registry; or
- (2) information required to be filed with federal, state, or local agencies;

when completing reports required by this chapter. However, the state department may require additional, definitive information.

SECTION 4. IC 16-38-2-11, AS ADDED BY P.L.93-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. Not later than ~~July 1~~ **December 31** of each year, the department shall publish and make available to the public an annual report summarizing the information collected under this chapter during the previous calendar year.

SECTION 5. IC 16-38-4-1, AS AMENDED BY P.L.93-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. As used in this chapter, "birth problems" means one (1) or more of the following conditions:

- (1) A structural deformation.
- (2) A developmental malformation.

(3) A genetic, inherited, or biochemical disease.

~~(4) Birth weight less than two thousand five hundred (2,500) grams.~~

~~(5)~~ **(4)** A condition of a chronic nature, including central nervous system hemorrhage or infection of the central nervous system, that may result in a need for long term health care.

~~(6) Stillbirth.~~

(5) A pervasive developmental disorder that is recognized in a child before the child becomes five (5) years of age.

(6) A fetal alcohol spectrum disorder that is recognized before a child becomes five (5) years of age.

(7) Any other severe disability that is:

(A) designated in a rule adopted by the state department; and

(B) recognized in a child after birth and before the child becomes ~~two (2)~~ **three (3)** years of age.

SECTION 6. IC 16-38-4-8, AS AMENDED BY P.L.11-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The state department shall establish a birth problems registry for the purpose of recording all cases of birth problems that occur in Indiana residents and compiling necessary and appropriate information concerning those cases, as determined by the state department, in order to:

(1) conduct epidemiologic and environmental studies and to apply appropriate preventive and control measures;

(2) inform the parents of children with birth problems:

(A) at the time of discharge from the hospital; or

(B) if a birth problem is diagnosed during a physician or hospital visit that occurs before the child is:

(i) except as provided in item (ii), three (3) years of age at the time of diagnosis; or

(ii) five (5) years of age at the time of diagnosis if the disorder is a pervasive developmental disorder or a fetal alcohol spectrum disorder; ~~two (2) years of age; at the time of diagnosis;~~

about physicians, care facilities, and appropriate community resources, including local step ahead agencies and the infants and toddlers with disabilities program (IC 12-17-15); or

(3) inform citizens regarding programs designed to prevent or

reduce birth problems.

(b) The state department shall record in the birth problems registry:

(1) all data concerning birth problems of children that are provided from the certificate of live birth; and

(2) any additional information that may be provided by an individual or entity described in section 7(a)(2) of this chapter concerning a birth problem that is:

(A) designated in a rule adopted by the state department; and

(B) recognized:

(i) after the child is discharged from the hospital as a newborn; ~~and~~

(ii) before the child is ~~two (2)~~ **five (5)** years of age **if the child is diagnosed with a pervasive developmental disorder or a fetal alcohol spectrum disorder; and**

(iii) before the child is three (3) years of age for any diagnosis not specified in item (ii).

(c) The state department shall:

(1) provide a physician and a local health department with necessary forms for reporting under this chapter; and

(2) report to the legislative council any birth problem trends that are identified through the data collected under this chapter.

SECTION 7. IC 16-38-4-9, AS AMENDED BY P.L.93-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Nurse midwives and individuals and entities described in section 7(a)(2) of this chapter shall report each confirmed case of a birth problem that is recognized at the time of birth to the registry not later than sixty (60) days after the birth. An individual or entity described in section 7(a)(2) of this chapter who recognizes a birth problem in a child after birth but before the child is ~~two (2)~~ **five (5)** years of age shall report the birth problem to the registry not later than sixty (60) days after recognizing the birth problem. Information may be provided to amend or clarify an earlier reported case.

(b) A person required to report information to the registry under this section may use, when completing reports required by this chapter, information submitted to any other public or private registry or required to be filed with federal, state, or local agencies. However, the state department may require additional, definitive information.

(c) Exchange of information between state department registries is

authorized. The state department may use information from another registry administered by the state department. Information used from other registries remains subject to the confidentiality restrictions on the other registries.

P.L.18-2004

[S.194. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 31-34-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

(H) IC 35-45-4-2; ~~or~~

(I) IC 35-46-1-3; ~~and or~~

(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I); and

(2) the child needs care, treatment, or rehabilitation that: ~~the child:~~

(A) **the child** is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as another child who is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

(H) IC 35-45-4-2;

(I) IC 35-46-1-3; or

(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I);

(2) the child lives in the same household as the adult who committed the sex offense under subdivision (1) and the sex offense resulted in a conviction or a judgment under IC 31-34-11-2;

(3) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court; and

(4) a caseworker assigned to provide services to the child:

(A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or

(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

SECTION 2. IC 31-34-12-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4.5. (a) There is a rebuttable presumption that a child is a child in need of services if the state establishes that:**

(1) another child in the same household is the victim of a sex offense described in IC 31-34-1-3; and

(2) the sex offense described in IC 31-34-1-3:

(A) was committed by an adult who lives in the household with the child; and

(B) resulted in a conviction of the adult or a judgment under IC 31-34-11-2 as it relates to the child against whom the sex offense was committed.

(b) The following may not be used as grounds to rebut the presumption under subsection (a):

(1) The child who is the victim of the sex offense described in IC 31-34-1-3 is not genetically related to the adult who committed the act, but the child presumed to be the child in need of services under this section is genetically related to the adult who committed the act.

(2) The child who is the victim of the sex offense described in IC 31-34-1-3 differs in age from the child presumed to be the child in need of services under this section.

(c) This section does not affect the ability to take a child into custody or emergency custody under IC 31-34-2 if the act of taking the child into custody or emergency custody is not based upon a presumption established under this section. However, if the presumption established under this section is the sole basis for taking a child into custody or emergency custody under IC 31-34-2, the court first must find cause to take the child into custody or emergency custody following a hearing in which the parent, guardian, or custodian of the child is accorded the rights described in IC 31-34-4-6(a)(2) through IC 31-34-4-6(a)(5).

P.L.19-2004

[S.278. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-2.5-10-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: **Sec. 5. (a) As used in this section, "NAICS code" refers to the code used to classify a particular industry in the current edition of the North American Industry Classification System Manual - United States, published by the National Technical Information Service of the United States Department of Commerce.**

(b) The department shall collect and maintain for all retail merchants information concerning the NAICS codes of the merchants.

P.L.20-2004

[S.296. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-12-9, AS AMENDED BY P.L.272-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: **Sec. 9. (a) An individual may obtain a deduction from the assessed value of the individual's real property, or mobile home or manufactured home which is not assessed as real property, if:**

(1) the individual is at least sixty-five (65) years of age on or before December 31 of the calendar year preceding the year in

which the deduction is claimed;

(2) the combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of:

(A) the individual and the individual's spouse; or

(B) the individual and all other individuals with whom:

(i) the individual shares ownership; or

(ii) the individual is purchasing the property under a contract;

as joint tenants or tenants in common;

for the calendar year preceding the year in which the deduction is claimed did not exceed twenty-five thousand dollars (\$25,000);

(3) the individual has owned the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction; or the individual has been buying the real property, mobile home, or manufactured home under a contract that provides that the individual is to pay the property taxes on the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction, and the contract or a memorandum of the contract is recorded in the county recorder's office;

(4) the individual and any individuals covered by subdivision (2)(B) reside on the real property, mobile home, or manufactured home;

(5) the assessed value of the real property, mobile home, or manufactured home does not exceed one hundred forty-four thousand dollars (\$144,000); and

(6) the individual receives no other property tax deduction for the year in which the deduction is claimed, except the deductions provided by sections 1, 37, and 38 of this chapter.

(b) Except as provided in subsection (h), in the case of real property, an individual's deduction under this section equals the lesser of:

(1) one-half (1/2) of the assessed value of the real property; or

(2) ~~six~~ **twelve** thousand **four hundred eighty** dollars ~~(\$6,000)-~~ **(\$12,480).**

(c) Except as provided in subsection (h) and section 40.5 of this chapter, in the case of a mobile home that is not assessed as real property or a manufactured home which is not assessed as real property, an individual's deduction under this section equals the lesser

of:

- (1) one-half (1/2) of the assessed value of the mobile home or manufactured home; or
- (2) ~~six~~ **twelve** thousand **four hundred eighty** dollars ~~(\$6,000)~~. **(\$12,480)**.

(d) An individual may not be denied the deduction provided under this section because the individual is absent from the real property, mobile home, or manufactured home while in a nursing home or hospital.

(e) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by:

- (1) tenants by the entirety;
- (2) joint tenants; or
- (3) tenants in common;

only one (1) deduction may be allowed. However, the age requirement is satisfied if any one (1) of the tenants is at least sixty-five (65) years of age.

(f) A surviving spouse is entitled to the deduction provided by this section if:

- (1) the surviving spouse is at least sixty (60) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;
- (2) the surviving spouse's deceased husband or wife was at least sixty-five (65) years of age at the time of a death;
- (3) the surviving spouse has not remarried; and
- (4) the surviving spouse satisfies the requirements prescribed in subsection (a)(2) through (a)(6).

(g) An individual who has sold real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property may not claim the deduction provided under this section against that real property.

(h) In the case of tenants covered by subsection (a)(2)(B), if all of the tenants are not at least sixty-five (65) years of age, the deduction allowed under this section shall be reduced by an amount equal to the deduction multiplied by a fraction. The numerator of the fraction is the number of tenants who are not at least sixty-five (65) years of age, and the denominator is the total number of tenants.

SECTION 2. IC 6-1.1-12-11, AS AMENDED BY P.L.291-2001,

SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 11. (a) Except as provided in section 40.5 of this chapter, an individual may have the sum of ~~six~~ **twelve** thousand **four hundred eighty** dollars (~~\$6,000~~) (**\$12,480**) deducted from the assessed value of real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual owns, or that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home, if the contract or a memorandum of the contract is recorded in the county recorder's office, and if:

- (1) the individual is blind or the individual is a disabled person;
- (2) the real property, mobile home, or manufactured home is principally used and occupied by the individual as the individual's residence; and
- (3) the individual's taxable gross income for the calendar year preceding the year in which the deduction is claimed did not exceed seventeen thousand dollars (\$17,000).

(b) For purposes of this section, taxable gross income does not include income which is not taxed under the federal income tax laws.

(c) For purposes of this section, "blind" has the same meaning as the definition contained in IC 12-7-2-21(1).

(d) For purposes of this section, "disabled person" means a person unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which:

- (1) can be expected to result in death; or
- (2) has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

(e) Disabled persons filing claims under this section shall submit proof of disability in such form and manner as the department shall by rule prescribe. Proof that a claimant is eligible to receive disability benefits under the federal Social Security Act (42 U.S.C. 301 et seq.) shall constitute proof of disability for purposes of this section.

(f) A disabled person not covered under the federal Social Security Act shall be examined by a physician and the individual's status as a disabled person determined by using the same standards as used by the Social Security Administration. The costs of this examination shall be borne by the claimant.

(g) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 3. IC 6-1.1-12-13, AS AMENDED BY P.L.291-2001, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 13. (a) Except as provided in section 40.5 of this chapter, an individual may have **twelve twenty-four thousand nine hundred sixty dollars (\$12,000) (\$24,960)** deducted from the assessed value of the taxable tangible property that the individual owns, or real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home, if the contract or a memorandum of the contract is recorded in the county recorder's office and if:

- (1) the individual served in the military or naval forces of the United States during any of its wars;
- (2) the individual received an honorable discharge;
- (3) the individual is disabled with a service connected disability of ten percent (10%) or more; and
- (4) the individual's disability is evidenced by:
 - (A) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs; or
 - (B) a certificate of eligibility issued to the individual by the Indiana department of veterans' affairs after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to receive a deduction under this section.

(b) The surviving spouse of an individual may receive the deduction provided by this section if the individual would qualify for the deduction if the individual were alive.

(c) One who receives the deduction provided by this section may not receive the deduction provided by section 16 of this chapter. However,

the individual may receive any other property tax deduction which the individual is entitled to by law.

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 4. IC 6-1.1-12-14, AS AMENDED BY P.L.272-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 14. (a) Except as provided in subsection (c) and except as provided in section 40.5 of this chapter, an individual may have the sum of ~~six~~ **twelve** thousand **four hundred eighty** dollars ~~(\$6,000)~~ **(\$12,480)** deducted from the assessed value of the tangible property that the individual owns (or the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home if the contract or a memorandum of the contract is recorded in the county recorder's office) if:

- (1) the individual served in the military or naval forces of the United States for at least ninety (90) days;
 - (2) the individual received an honorable discharge;
 - (3) the individual either:
 - (A) is totally disabled; or
 - (B) is at least sixty-two (62) years old and has a disability of at least ten percent (10%); and
 - (4) the individual's disability is evidenced by:
 - (A) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs; or
 - (B) a certificate of eligibility issued to the individual by the Indiana department of veterans' affairs after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to receive a deduction under this section.
- (b) Except as provided in subsection (c), the surviving spouse of an

individual may receive the deduction provided by this section if the individual would qualify for the deduction if the individual were alive.

(c) No one is entitled to the deduction provided by this section if the assessed value of the individual's tangible property, as shown by the tax duplicate, exceeds one hundred thirteen thousand dollars (\$113,000).

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 5. IC 6-1.1-12-16, AS AMENDED BY P.L.291-2001, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 16. (a) Except as provided in section 40.5 of this chapter, a surviving spouse may have the sum of **nine eighteen thousand seven hundred twenty** dollars (~~\$9,000~~) (**\$18,720**) deducted from the assessed value of his or her tangible property, or real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the surviving spouse is buying under a contract that provides that he is to pay property taxes on the real property, mobile home, or manufactured home, if the contract or a memorandum of the contract is recorded in the county recorder's office, and if:

(1) the deceased spouse served in the military or naval forces of the United States before November 12, 1918; and

(2) the deceased spouse received an honorable discharge.

(b) A surviving spouse who receives the deduction provided by this section may not receive the deduction provided by section 13 of this chapter. However, he or she may receive any other deduction which he or she is entitled to by law.

(c) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 6. IC 6-1.1-12-17.4, AS AMENDED BY P.L.272-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 17.4. (a) Except as provided in section 40.5 of this chapter, a World War I veteran who is a resident of Indiana is entitled to have the sum of ~~nine~~ **eighteen** thousand **seven hundred twenty** dollars (~~\$9,000~~) (**\$18,720**) deducted from the assessed valuation of the real property (including a mobile home that is assessed as real property), mobile home that is not assessed as real property, or manufactured home that is not assessed as real property the veteran owns or is buying under a contract that requires the veteran to pay property taxes on the real property, if the contract or a memorandum of the contract is recorded in the county recorder's office, if:

- (1) the real property, mobile home, or manufactured home is the veteran's principal residence;
- (2) the assessed valuation of the real property, mobile home, or manufactured home does not exceed one hundred sixty-three thousand dollars (\$163,000); and
- (3) the veteran owns the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction.

(b) An individual may not be denied the deduction provided by this section because the individual is absent from the individual's principal residence while in a nursing home or hospital.

(c) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by a husband and wife as tenants by the entirety, only one (1) deduction may be allowed under this section. However, the deduction provided in this section applies if either spouse satisfies the requirements prescribed in subsection (a).

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

SECTION 7. IC 6-1.1-12-18, AS AMENDED BY P.L.90-2002, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 18. (a) If the assessed value

of residential real property described in subsection (d) is increased because it has been rehabilitated, the owner may have deducted from the assessed value of the property an amount not to exceed the lesser of:

- (1) the total increase in assessed value resulting from the rehabilitation; or
- (2) ~~nine~~ **eighteen** thousand **seven hundred twenty** dollars (~~\$9,000~~) (**\$18,720**) per rehabilitated dwelling unit.

The owner is entitled to this deduction annually for a five (5) year period.

(b) For purposes of this section, the term "rehabilitation" means significant repairs, replacements, or improvements to an existing structure which are intended to increase the livability, utility, safety, or value of the property under rules adopted by the department of local government finance.

(c) For the purposes of this section, the term "owner" or "property owner" includes any person who has the legal obligation, or has otherwise assumed the obligation, to pay the real property taxes on the rehabilitated property.

(d) The deduction provided by this section applies only for the rehabilitation of residential real property which is located within this state and which is described in one (1) of the following classifications:

- (1) a single family dwelling if before rehabilitation the assessed value (excluding any exemptions or deductions) of the improvements does not exceed ~~eighteen~~ **thirty-seven** thousand **four hundred forty** dollars (~~\$18,000~~); (**\$37,440**);
- (2) a two (2) family dwelling if before rehabilitation the assessed value (excluding exemptions or deductions) of the improvements does not exceed ~~twenty-four~~ **forty-nine** thousand **nine hundred twenty** dollars (~~\$24,000~~); (**\$49,920**); and
- (3) a dwelling with more than two (2) family units if before rehabilitation the assessed value (excluding any exemptions or deductions) of the improvements does not exceed ~~nine~~ **eighteen** thousand **seven hundred twenty** dollars (~~\$9,000~~) (**\$18,720**) per dwelling unit.

SECTION 8. IC 6-1.1-12-22, AS AMENDED BY P.L.90-2002, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 22. (a) If the assessed value

of property is increased because it has been rehabilitated and the owner has paid at least ten thousand dollars (\$10,000) for the rehabilitation, the owner is entitled to have deducted from the assessed value of the property an amount equal to fifty percent (50%) of the increase in assessed value resulting from the rehabilitation. The owner is entitled to this deduction annually for a five (5) year period. However, the maximum deduction which a property owner may receive under this section for a particular year is:

- (1) ~~sixty one hundred twenty-four~~ thousand ~~eight hundred~~ dollars (~~\$60,000~~) **(\$124,800)** for a single family dwelling unit; or
- (2) three hundred thousand dollars (\$300,000) for any other type of property.

(b) For purposes of this section, the term "property" means a building or structure which was erected at least fifty (50) years before the date of application for the deduction provided by this section. The term "property" does not include land.

(c) For purposes of this section, the term "rehabilitation" means significant repairs, replacements, or improvements to an existing structure that are intended to increase the livability, utility, safety, or value of the property under rules adopted by the department of local government finance.

SECTION 9. IC 6-1.1-12.1-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 4.1. (a) Section 4 of this chapter applies to economic revitalization areas that are not residentially distressed areas.

(b) This subsection applies to economic revitalization areas that are residentially distressed areas. The amount of the deduction that a property owner is entitled to receive under section 3 of this chapter for a particular year equals the lesser of:

- (1) the assessed value of the improvement to the property after the rehabilitation or redevelopment has occurred; or
- (2) the following amount:

TYPE OF DWELLING	AMOUNT
One (1) family dwelling	\$36,000 \$74,880
Two (2) family dwelling	\$51,000 \$106,080
Three (3) unit multifamily dwelling	\$75,000 \$156,000
Four (4) unit multifamily dwelling	\$96,000 \$199,680

SECTION 10. [EFFECTIVE JANUARY 1, 2005] (a) **IC 6-1.1-12-9,**

IC 6-1.1-12-11, IC 6-1.1-12-13, IC 6-1.1-12-14, IC 6-1.1-12-16, and IC 6-1.1-12-17.4, all as amended by this act, apply only to property taxes first due and payable after December 31, 2004.

(b) The amendments to IC 6-1.1-12-18, IC 6-1.1-12-22, and IC 6-1.1-12.1-4.1 by this act apply:

(1) to property taxes first due and payable after December 31, 2004; and

(2) regardless of whether a taxpayer's initial deduction in the five (5) year deduction period under IC 6-1.1-12-18, IC 6-1.1-12-22, or IC 6-1.1-12.1-4.1 applied to property taxes first due and payable before January 1, 2005.

P.L.21-2004

[S.363. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-23-29 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 29. Governor's Council for People With Disabilities

Sec. 1. As used in this chapter, "act" refers to the federal Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024) and subsequent amendments.

Sec. 2. As used in this chapter, "board" refers to the board of directors of the council.

Sec. 3. As used in this chapter, "council" refers to the governor's council for people with disabilities established by section 7 of this chapter.

Sec. 4. (a) As used in this chapter, for an individual who is at least five (5) years of age, "developmental disability" means a severe, chronic disability that:

(1) is attributable to a mental or physical impairment or

combination of mental and physical impairments;

(2) is manifested before the individual is twenty-two (22) years of age;

(3) is likely to continue indefinitely;

(4) results in substantial functional limitation in three (3) or more areas of major life activity; and

(5) reflects the individual's need for special, interdisciplinary services, supports, or assistance that are of lifelong or extended duration and are individually planned and coordinated.

(b) As used in this chapter, for an individual less than five (5) years of age, "developmental disability" means:

(1) substantial developmental delay; or

(2) specific congenital or acquired conditions;

with high probability of resulting in a developmental disability described in subsection (a) if services are not provided.

Sec. 5. As used in this chapter, "disability" means a physical or mental impairment that substantially limits one (1) or more major life activities.

Sec. 6. As used in this chapter, "major life activity" includes the following:

(1) Self-care.

(2) Receptive and expressive language.

(3) Learning.

(4) Mobility.

(5) Self-direction.

(6) Capacity for independent living.

(7) Economic self-sufficiency.

Sec. 7. The governor's council for people with disabilities is established to:

(1) implement the act;

(2) implement the policies established by the board; and

(3) receive grants from:

(A) the federal government;

(B) philanthropic foundations; and

(C) private sources.

Sec. 8. (a) The board of directors of the council is established.

(b) The following ex officio members are nonvoting members of the board:

(1) The state superintendent of public instruction or the superintendent's designee.

(2) The secretary of family and social services or the secretary's designee.

(3) The commissioner of the state department of health or the commissioner's designee.

(c) The following ex officio members are voting members of the board:

(1) The executive director of the Indiana protection and advocacy services commission.

(2) The executive director of the university center for excellence as designated under the act.

(d) The governor shall appoint the following fifteen (15) members to the board for terms of three (3) years or until a successor is appointed:

(1) Three (3) individuals with developmental disabilities.

(2) Three (3) individuals who are:

(A) parents of children with developmental disabilities; or

(B) immediate relatives or guardians of adults with developmental disabilities.

(3) Two (2) individuals who may be:

(A) individuals with developmental disabilities; or

(B) parents, immediate relatives, or guardians of individuals with developmental disabilities.

(4) One (1) individual who is institutionalized or was previously institutionalized or the parent, immediate relative, or guardian of an individual who is institutionalized or was previously institutionalized.

(5) Two (2) individuals with disabilities representing local community or statewide organizations whose stated mission includes fostering the productivity, inclusion, and independence of people with developmental disabilities.

(6) Two (2) individuals who represent:

(A) the community; or

(B) a business that has demonstrated a commitment to implementing the federal Americans with Disabilities Act (42 U.S.C. 1201 et seq.).

(7) Two (2) individuals who represent providers of services to persons with disabilities, including the following:

- (A) Special education programs.
- (B) Independent living centers.
- (C) Community based programs.
- (D) Health care.
- (E) Preschool, early intervention programs, or area agencies on aging.

(e) Of the individuals initially appointed by the governor, at least seven (7) must be chosen from names submitted by the council for consideration.

(f) Individuals appointed by the governor under subsection (d)(1) through (d)(5) serve at the pleasure of the governor and must have demonstrated an active involvement in the development of disability policy by:

- (1) serving on boards or commissions; or
- (2) advocating;

on behalf of persons with disabilities.

(g) A member may not serve more than two (2) consecutive three (3) year terms. The governor shall make appointments not later than October 1 of each year.

(h) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Members are also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(i) The governor shall appoint a chairperson of the board, who has at least one (1) year of experience as a board member, from among the members appointed by the governor.

(j) The board shall adopt policies and procedures to carry out the board's duties under:

- (1) the act; and
- (2) this chapter.

(k) The affirmative votes of a majority of the voting members appointed to the board are required for the board to take action on any measure.

Sec. 9. The council may enter into contracts in accordance with IC 5-22.

Sec. 10. (a) The council shall develop and implement a five (5) year plan adopted by the board for persons with disabilities that meets the requirements of the act and this chapter.

(b) The council shall be funded with federal funds received.

(c) The council shall administer funds received from the following:

(1) Grants.

(2) Contracts.

(3) Interagency agreements.

(d) The council shall finance and implement programs, projects, and activities required under the five (5) year plan adopted by the board, including the following:

(1) Conducting hearings and forums that the council determines necessary to carry out the duties of the council.

(2) Conducting at least four (4) business meetings per calendar year.

(3) Hiring, supervising, and evaluating an executive director.

(4) Maintaining sufficient staff, supervised by the executive director, to carry out the duties of the council.

(5) Entering into contracts for services to carry out the council's functions.

Sec. 11. (a) The council shall advocate on behalf of persons with disabilities by providing information and advice to:

(1) state and local officials;

(2) the governor;

(3) the general assembly; and

(4) the United States Congress.

(b) The council shall promote private and public sector partnerships to advance:

(1) the act;

(2) the federal Americans with Disabilities Act;

(3) the federal Fair Housing Act; and

(4) other legislation that protects and benefits persons with disabilities and families of individuals with disabilities.

(c) The council shall provide leadership in the development, adoption, and implementation of public policy to create partnerships between the public and private sector to advance the goals of:

(1) independence;

- (2) community inclusion;
- (3) productivity; and
- (4) integration;

of people with disabilities in all aspects of society.

(d) The council is designated as the single state agency to administer the act.

SECTION 2. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 4-23-29-8, as added by this act, an individual who, before July 1, 2004, serves as a member of the board of directors of the governor's council for people with disabilities shall finish the term to which the individual was appointed under executive order EO 03-23.

(b) When the term of an individual described in subsection (a) expires, the governor shall appoint a member under IC 4-23-29, as added by this act.

(c) The provisions of IC 4-23-29-8(g), as added by this act, concerning a limit of two (2) consecutive terms apply to an individual who is serving on July 1, 2004, as a member of the board of directors of the governor's council for people with disabilities and who is eligible for reappointment under IC 4-23-29-8, as added by this act.

(d) This SECTION expires December 31, 2006.

P.L.22-2004

[S.449. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-5-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. The commission may study any topic:

- (1) directed by the chairman of the commission;
- (2) assigned by the legislative council; or

(3) concerning issues that include:

(A) the delivery, payment, and organization of health care services; ~~and~~

(B) rules adopted under IC 4-22-2 that pertain to health care delivery, payment, and services that are under the authority of any board or agency of state government; **and**

(C) the implementation of IC 12-10-11.5.

SECTION 2. [EFFECTIVE APRIL 1, 2004] (a) As used in this SECTION, "CHOICE program" refers to the community and home options to institutional care for the elderly and disabled program established under IC 12-10-10.

(b) As used in this SECTION, "office" refers to the office of the secretary of family and social services (IC 12-8-1-1).

(c) The office shall report, in writing, to the health finance commission (IC 2-5-23) not later than May 1, 2004, the office's progress in implementing IC 12-10-11.5. The report must also include the following:

(1) Plans and progress to use all funds appropriated by the general assembly for the CHOICE program, and only for that program, as long as a waiting list exists for CHOICE program funded services.

(2) Plans for establishing the comprehensive array of home and community based services that are required by IC 12-10-11.5.

(3) Progress in enrolling individuals in home and community based services through Medicaid waivers, using the income eligibility standard established for those services by IC 12-10-11.5.

(4) Progress in moving individuals from institutions to home and community based services through Medicaid waivers, using the funds that follow the individual under IC 12-10-11.5.

(5) Progress in tracking and recording savings generated by the implementation of IC 12-10-11.5.

(6) Plans and actions taken to secure federal funding, including grants and private and state funding, other than funds appropriated to the CHOICE program, to assist in the implementation of IC 12-10-11.5.

(7) The office's reasons for any failure to meet the statutory deadlines established by IC 12-10-11.5.

(d) This SECTION expires July 1, 2005.

SECTION 3. An emergency is declared for this act.

P.L.23-2004

[H.1001. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.141-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

- (1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.
- (2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- (3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.
- (4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.
- (5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.
- (6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.
- (7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.
- (8) An emergency rule jointly adopted by the water pollution

control board and the budget agency under IC 13-18-13-18.

(9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(20) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(22) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(23) An emergency rule adopted by the Indiana state board of

animal health under IC 15-2.1-18-21.

(24) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(25) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(26) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(27) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(28) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under

subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), **and except as provided in subsection (j), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), (a)(25), (a)(26), or (a)(28), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(25), (a)(26), or (a)(28) may be extended for an unlimited number of extension periods.** Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(25) or (a)(26) expires not later than January 1, 2006.

SECTION 2. IC 5-13-10.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The treasurer of state may invest or reinvest funds that are held by the treasurer and that are available for investment in obligations issued by any of the following:

(1) Agencies or instrumentalities of the United States government.

(2) Federal government sponsored enterprises.

(3) The Indiana bond bank, if the obligations are secured by

tax anticipation time warrants or notes that:

(A) are issued by a political subdivision (as defined in IC 36-1-2-13); and

(B) have a maturity date not later than the end of the calendar year following the year of issuance.

SECTION 3. IC 6-1.1-1-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.7. "Mobile home" has the meaning set forth in IC 6-1.1-7-1.**

SECTION 4. IC 6-1.1-4-34, AS ADDED BY P.L.235-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 8, 2003 (RETROACTIVE)]: Sec. 34. (a) As used in this section, "special master" refers to a person designated by the Indiana board under subsection (e).

(b) The notice of reassessment under section 32(f) of this chapter is subject to appeal by the taxpayer to the Indiana board. The procedures and time limitations that apply to an appeal to the Indiana board of a determination of the department of local government finance do not apply to an appeal under this subsection. The Indiana board may establish applicable procedures and time limitations under subsection (l).

(c) In order to appeal under subsection (b), the taxpayer must:

(1) request and participate as required in the informal hearing process under section 33 of this chapter not later than forty-five (45) days after the date of the notice of reassessment under section 32(f) of this chapter;

(2) except as provided in section 33(i) of this chapter, receive a notice of changed reassessment under section 33(g) of this chapter; and

(3) file a petition for review with the appropriate county assessor not later than thirty (30) days after the notice of the department of local government finance is given to the taxpayer under section ~~32(f)~~ **33(g)** of this chapter.

(d) The Indiana board may develop a form for petitions under subsection (c) that:

(1) outlines:

(A) the appeal process;

(B) the burden of proof; and

(C) evidence necessary to warrant a change to a reassessment;
and

(2) describes:

(A) the increase in the property tax replacement credit; and

(B) other changes to the property tax system;

under P.L.192-2002(ss) that reduced the effect of general reassessment on property tax liability.

(e) The Indiana board may contract with, appoint, or otherwise designate the following to serve as special masters to conduct evidentiary hearings and prepare reports required under subsection (g):

(1) Independent, licensed appraisers.

(2) Attorneys.

(3) Certified level two Indiana assessor-appraisers (including administrative law judges employed by the Indiana board).

(4) Other qualified individuals.

(f) Each contract entered into under subsection (e) must specify the appointee's compensation and entitlement to reimbursement for expenses. The compensation and reimbursement for expenses are paid from the county property reassessment fund. Payments under this subsection from the county property reassessment fund may not exceed five hundred thousand dollars (\$500,000).

(g) With respect to each petition for review filed under subsection (c), the special masters shall:

(1) set a hearing date;

(2) give notice of the hearing at least thirty (30) days before the hearing date, by mail, to:

(A) the taxpayer;

(B) the department of local government finance;

(C) the township assessor; and

(D) the county assessor;

(3) conduct a hearing and hear all evidence submitted under this section; and

(4) make evidentiary findings and file a report with the Indiana board.

(h) At the hearing under subsection (g):

(1) the taxpayer shall present:

(A) its evidence that the reassessment is incorrect;

(B) the method by which the taxpayer contends the

reassessment is correctly determined; and

(C) comparable sales, appraisals, or other pertinent information concerning valuation as required by the Indiana board; and

(2) the department of local government finance shall present its evidence that the reassessment is correct.

(i) The Indiana board may dismiss a petition for review filed under subsection (c) if the evidence and other information required under subsection (h)(1) is not provided at the hearing under subsection (g).

(j) The township assessor and the county assessor may attend and participate in the hearing under subsection (g).

(k) The Indiana board may:

(1) consider the report of the special masters under subsection (g)(4);

(2) make a final determination based on the findings of the special masters without:

(A) conducting a hearing; or

(B) any further proceedings; and

(3) incorporate the findings of the special masters into the board's findings in resolution of the appeal.

(l) The Indiana board may adopt emergency rules under IC 4-22-2-37.1 to:

(1) establish procedures to expedite:

(A) the conduct of hearings under subsection (g); and

(B) the issuance of determinations of appeals under subsection (b); and

(2) establish deadlines:

(A) for conducting hearings under subsection (g); and

(B) for issuing determinations of appeals under subsection (b).

(m) A determination by the Indiana board of an appeal under subsection (b) is subject to appeal to the tax court under IC 6-1.1-15.

(n) This section expires December 31, 2005.

SECTION 5. IC 6-1.1-4-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 35. (a) This section applies to a county other than a county subject to section 32 of this chapter.**

(b) This section applies to a general reassessment of real property conducted under section 4(a) of this chapter that is

scheduled to become effective for property taxes first due and payable in 2003.

(c) As used in this section, "department" refers to the department of local government finance.

(d) As used in this section, "reassessment official" means any of the following:

- (1) A county assessor.
- (2) A township assessor.
- (3) A township trustee-assessor.

(e) If:

- (1) the department determines that a county's reassessment officials are unable to complete the reassessment in a timely manner; or
- (2) the department determines that a county's reassessment officials are likely to complete the reassessment in an inaccurate manner;

the department may order a state conducted reassessment in the county. The department may consider a reassessment in a county untimely if the county does not submit the county's equalization study to the department in the manner prescribed under 50 IAC 14 before October 20, 2003. The department may consider the reassessment work of a county's reassessment officials inaccurate if the department determines from a sample of the assessments completed in the county that there is a variance exceeding ten percent (10%) between the total assessed valuation of the real property within the sample and the total assessed valuation that would result if the real property within the sample were valued in the manner provided by law.

(f) If the department orders a state conducted reassessment in a county, the department shall assume the duties of the county's reassessment officials. Notwithstanding sections 15 and 17 of this chapter, a reassessment official in a county subject to an order issued under this section may not assess property or have property assessed for the general reassessment. Until the state conducted reassessment is completed under this section, the reassessment duties of a reassessment official in the county are limited to providing the department or a contractor of the department the support and information requested by the department or the contractor.

(g) Before assuming the duties of a county's reassessment officials, the department shall transmit a copy of the department's order requiring a state conducted reassessment to the county's reassessment officials, the county fiscal body, the county auditor, and the county treasurer. Notice of the department's actions must be published one (1) time in a newspaper of general circulation published in the county. The department is not required to conduct a public hearing before taking action under this section.

(h) Township and county officials in a county subject to an order issued under this section shall, at the request of the department or the department's contractor, make available and provide access to all:

- (1) data;
- (2) records;
- (3) maps;
- (4) parcel record cards;
- (5) forms;
- (6) computer software systems;
- (7) computer hardware systems; and
- (8) other information;

related to the reassessment of real property in the county. The information described in this subsection must be provided at no cost to the department or the contractor of the department. A failure to provide information requested under this subsection constitutes a failure to perform a duty related to a general reassessment and is subject to IC 6-1.1-37-2.

(i) The department may enter into a contract with a professional appraising firm to conduct a reassessment under this section. If a county or a township located in the county entered into a contract with a professional appraising firm to conduct the county's reassessment before the department orders a state conducted reassessment in the county under this section, the contract:

- (1) is as valid as if it had been entered into by the department; and
- (2) shall be treated as the contract of the department.

(j) After receiving the report of assessed values from the appraisal firm acting under a contract described in subsection (i), the department shall give notice to the taxpayer and the county assessor, by mail, of the amount of the reassessment. The notice of

reassessment:

(1) is subject to appeal by the taxpayer under section 37 of this chapter; and

(2) must include a statement of the taxpayer's rights under section 37 of this chapter.

(k) The department shall forward a bill for services provided under a contract described in subsection (i) to the auditor of the county in which the state conducted reassessment occurs. The county shall pay the bill under the procedures prescribed by subsection (l).

(l) A county subject to an order issued under this section shall pay the cost of a contract described in subsection (i), without appropriation, from the county's property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under the contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

(1) submits to the department a fully itemized, certified bill in the form required by IC 5-11-10-1 for the costs of the work performed under the contract;

(2) obtains from the department:

(A) approval of the form and amount of the bill; and

(B) a certification that the billed goods and services have been received and comply with the contract; and

(3) files with the county auditor:

(A) a duplicate copy of the bill submitted to the department;

(B) proof of the department's approval of the form and amount of the bill; and

(C) the department's certification that the billed goods and services have been received and comply with the contract.

The department's approval and certification of a bill under subdivision (2) shall be treated as conclusively resolving the merits of a contractor's claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive. The county executive shall allow the claim, in full, as approved by the department, without further

examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after the completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department. Compliance with this subsection constitutes compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim submitted under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

(m) Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the department entered into under this section:

- (1) The commissioner of the Indiana department of administration.
- (2) The director of the budget agency.
- (3) The attorney general.

(n) If the money in a county's property reassessment fund is insufficient to pay for a reassessment conducted under this section, the department may increase the tax rate and tax levy of the county's property reassessment fund to pay the cost and expenses related to the reassessment.

(o) The department or the contractor of the department shall use the land values determined under section 13.6 of this chapter for a county subject to an order issued under this section to the extent that the department or the contractor finds that the land values reflect the true tax value of land, as determined under this article and the rules of the department. If the department or the contractor finds that the land values determined for the county under section 13.6 of this chapter do not reflect the true tax value of land, the department or the contractor shall determine land values for the county that reflect the true tax value of land, as determined under this article and the rules of the department. Land values determined under this subsection shall be used to the same extent as if the land values had been determined under

section 13.6 of this chapter. The department or the contractor of the department shall notify the county's reassessment officials of the land values determined under this subsection.

(p) A contractor of the department may notify the department if:

(1) a county auditor fails to:

(A) certify the contractor's bill;

(B) publish the contractor's claim;

(C) submit the contractor's claim to the county executive;
or

(D) issue a warrant or check for payment of the contractor's bill;

as required by subsection (l) at the county auditor's first legal opportunity to do so;

(2) a county executive fails to allow the contractor's claim as legally required by subsection (l) at the county executive's first legal opportunity to do so; or

(3) a person or an entity authorized to act on behalf of the county takes or fails to take an action, including failure to request an appropriation, and that action or failure to act delays or halts progress under this section for payment of the contractor's bill.

(q) The department, upon receiving notice under subsection (p) from a contractor of the department, shall:

(1) verify the accuracy of the contractor's assertion in the notice that:

(A) a failure occurred as described in subsection (p)(1) or (p)(2); or

(B) a person or an entity acted or failed to act as described in subsection (p)(3); and

(2) provide to the treasurer of state the department's approval under subsection (l)(2)(A) of the contractor's bill with respect to which the contractor gave notice under subsection (p).

(r) Upon receipt of the department's approval of a contractor's bill under subsection (q), the treasurer of state shall pay the contractor the amount of the bill approved by the department from money in the possession of the state that would otherwise be available for distribution to the county, including distributions from the property tax replacement fund or distribution of

admissions taxes or wagering taxes.

(s) The treasurer of state shall withhold from the money that would be distributed under IC 4-33-12-6, IC 4-33-13-5, IC 6-1.1-21-4(b) or any other law to a county described in a notice provided under subsection (p) the amount of a payment made by the treasurer of state to the contractor of the department under subsection (r). Money shall be withheld first from the money payable to the county under IC 6-1.1-21-4(b) and then from all other sources payable to the county.

(t) Compliance with subsections (p) through (s) constitutes compliance with IC 5-11-10.

(u) IC 5-11-10-1.6(d) applies to the treasurer of state with respect to the payment made in compliance with subsections (p) through (s). This subsection and subsections (p) through (s) must be interpreted liberally so that the state shall, to the extent legally valid, ensure that the contractual obligations of a county subject to this section are paid. Nothing in this section shall be construed to create a debt of the state.

(v) The provisions of this section are severable as provided in IC 1-1-1-8(b).

(w) This section expires January 1, 2007.

SECTION 6. IC 6-1.1-4-36 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 36. (a) Subject to the other requirements of this section, the department of local government finance may:**

(1) negotiate an addendum to a contract referred to in section 35(i) of this chapter that is treated as a contract of the department; or

(2) include provisions in a contract entered into by the department under section 35(i) of this chapter;

to require the contractor of the department to represent the department in appeals initiated under section 37 of this chapter and to afford to each taxpayer in the county an opportunity to attend an informal hearing.

(b) The purpose of the informal hearing referred to in subsection (a) is to:

(1) discuss the specifics of the taxpayer's reassessment;

(2) review the taxpayer's property record card;

(3) explain to the taxpayer how the reassessment was

determined;

(4) provide to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the reassessment;

(5) note and consider objections of the taxpayer;

(6) consider all errors alleged by the taxpayer; and

(7) otherwise educate the taxpayer about:

(A) the taxpayer's reassessment;

(B) the reassessment process; and

(C) the reassessment appeal process under section 37 of this chapter.

(c) Following an informal hearing referred to in subsection (b), the contractor shall:

(1) make a recommendation to the department of local government finance as to whether a change in the reassessment is warranted; and

(2) if recommending a change under subdivision (1), provide to the department a statement of:

(A) how the changed reassessment was determined; and

(B) the amount of the changed reassessment.

(d) To preserve the right to appeal under section 37 of this chapter, a taxpayer must initiate the informal hearing process by notifying the department of local government finance or its designee of the taxpayer's intent to participate in an informal hearing referred to in subsection (b) not later than forty-five (45) days after the department of local government finance gives notice under section 35(j) of this chapter to taxpayers of the amount of the reassessment.

(e) The informal hearings referred to in subsection (b) must be conducted:

(1) in the county where the property is located; and

(2) in a manner determined by the department of local government finance.

(f) The department of local government finance shall:

(1) consider the recommendation of the contractor under subsection (c); and

(2) if the department accepts a recommendation that a change in the reassessment is warranted, accept or modify the recommended amount of the changed reassessment.

(g) The department of local government finance shall send a notice of the result of each informal hearing to:

- (1) the taxpayer;**
- (2) the county auditor;**
- (3) the county assessor; and**
- (4) the township assessor of the township in which the property is located.**

(h) A notice under subsection (g) must:

- (1) state whether the reassessment was changed as a result of the informal hearing; and**
- (2) if the reassessment was changed as a result of the informal hearing:**
 - (A) indicate the amount of the changed reassessment; and**
 - (B) provide information on the taxpayer's right to appeal under section 37 of this chapter.**

(i) If the department of local government finance does not send a notice under subsection (g) not later than two hundred seventy (270) days after the date the department gives notice of the amount of the reassessment under section 32(f) of this chapter:

- (1) the department may not change the amount of the reassessment under the informal hearing process described in this section; and**
- (2) the taxpayer may appeal the reassessment under section 37 of this chapter.**

(j) The department of local government finance may adopt emergency rules to establish procedures for informal hearings under this section.

(k) Payment for an addendum to a contract under subsection (a)(1) is made in the same manner as payment for the contract under section 35(k) of this chapter.

(l) This section expires January 1, 2007.

SECTION 7. IC 6-1.1-4-37 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) As used in this section, "special master" refers to a person designated by the Indiana board under subsection (e).

(b) The notice of reassessment under section 35(j) of this chapter is subject to appeal by the taxpayer to the Indiana board. The procedures and time limitations that apply to an appeal to the

Indiana board of a determination of the department of local government finance do not apply to an appeal under this subsection. The Indiana board may establish applicable procedures and time limitations under subsection (l).

(c) In order to appeal under subsection (b), the taxpayer must:

- (1) participate in the informal hearing process under section 36 of this chapter;
- (2) except as provided in section 36(i) of this chapter, receive a notice under section 36(g) of this chapter; and
- (3) file a petition for review with the appropriate county assessor not later than thirty (30) days after:
 - (A) the date of the notice to the taxpayer under section 36(g) of this chapter; or
 - (B) the date after which the department may not change the amount of the reassessment under the informal hearing process described in section 36 of this chapter.

(d) The Indiana board may develop a form for petitions under subsection (c) that outlines:

- (1) the appeal process;
- (2) the burden of proof; and
- (3) evidence necessary to warrant a change to a reassessment.

(e) The Indiana board may contract with, appoint, or otherwise designate the following to serve as special masters to conduct evidentiary hearings and prepare reports required under subsection (g):

- (1) Independent, licensed appraisers.
- (2) Attorneys.
- (3) Certified level two Indiana assessor-appraisers (including administrative law judges employed by the Indiana board).
- (4) Other qualified individuals.

(f) Each contract entered into under subsection (e) must specify the appointee's compensation and entitlement to reimbursement for expenses. The compensation and reimbursement for expenses are paid from the county property reassessment fund. Payments under this subsection from the county property reassessment fund may not exceed five hundred thousand dollars (\$500,000).

(g) With respect to each petition for review filed under subsection (c), the special masters shall:

- (1) set a hearing date;

- (2) give notice of the hearing at least thirty (30) days before the hearing date, by mail, to:
 - (A) the taxpayer;
 - (B) the department of local government finance;
 - (C) the township assessor; and
 - (D) the county assessor;
 - (3) conduct a hearing and hear all evidence submitted under this section; and
 - (4) make evidentiary findings and file a report with the Indiana board.
- (h) At the hearing under subsection (g):
 - (1) the taxpayer shall present:
 - (A) the taxpayer's evidence that the reassessment is incorrect;
 - (B) the method by which the taxpayer contends the reassessment should be correctly determined; and
 - (C) comparable sales, appraisals, or other pertinent information concerning valuation as required by the Indiana board; and
 - (2) the department of local government finance shall present its evidence that the reassessment is correct.
- (i) The Indiana board may dismiss a petition for review filed under subsection (c) if the evidence and other information required under subsection (h)(1) is not provided at the hearing under subsection (g).
- (j) The township assessor and the county assessor may attend and participate in the hearing under subsection (g).
- (k) The Indiana board may:
 - (1) consider the report of the special masters under subsection (g)(4);
 - (2) make a final determination based on the findings of the special masters without:
 - (A) conducting a hearing; or
 - (B) any further proceedings; and
 - (3) incorporate the findings of the special masters into the board's findings in resolution of the appeal.
- (l) The Indiana board may adopt emergency rules under IC 4-22-2-37.1 to:
 - (1) establish procedures to expedite:

- (A) the conduct of hearings under subsection (g); and
- (B) the issuance of determinations of appeals under subsection (k); and

(2) establish deadlines:

- (A) for conducting hearings under subsection (g); and
- (B) for issuing determinations of appeals under subsection (k).

(m) A determination by the Indiana board of an appeal under subsection (k) is subject to appeal to the tax court under IC 6-1.1-15.

(n) This section expires January 1, 2007.

SECTION 8. IC 6-1.1-4-38 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 38. (a) As used in this section, "qualifying county" means a county in which the department of local government finance, under section 35 of this chapter, conducts the general reassessment scheduled to become effective under section 4(a) of this chapter for property taxes first due and payable in 2003.**

(b) As used in this section, "contractor" means a reassessment contractor of the department of local government finance that is conducting a county's general reassessment under section 35 of this chapter.

(c) As used in this section, "qualifying official" refers to any of the following:

- (1) A county assessor of a qualifying county.**
- (2) A township assessor of a qualifying county.**
- (3) The county auditor of a qualifying county.**
- (4) The treasurer of a qualifying county.**
- (5) The county surveyor of a qualifying county.**
- (6) A member of the land valuation commission in a qualifying county.**
- (7) Any other township or county official in a qualifying county who has possession or control of information necessary or useful for a general reassessment, general reassessment review, or special reassessment of property to which section 35 of this chapter applies, including information in the possession or control of an employee or a contractor of the official.**

(8) Any county official in a qualifying county who has control, review, or other responsibilities related to paying claims of a contractor submitted for payment under section 35 of this chapter.

(d) Upon petition from the department of local government finance or a contractor, the tax court may order a qualifying official to produce information requested in writing from the qualifying official by the department of local government finance or a contractor.

(e) If the tax court orders a qualifying official to provide requested information as described in subsection (d), the tax court shall order production of the information not later than fourteen (14) days after the date of the tax court's order.

(f) The tax court may find that any willful violation of this section by a qualifying official constitutes a direct contempt of the tax court.

(g) This section expires January 1, 2007.

SECTION 9. IC 6-1.1-4-39 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 39. (a) For assessment dates after February 28, 2005, except as provided in subsection (c), the true tax value of real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more and that has more than four (4) rental units is the lowest valuation determined by applying each of the following appraisal approaches:

(1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation together with estimates of the losses in value that have taken place due to wear and tear, design and plan, or neighborhood influences.

(2) Sales comparison approach, using data for generally comparable property.

(3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use.

(b) The gross rent multiplier method is the preferred method of

valuing:

(1) real property that has at least one (1) and not more than four (4) rental units; and

(2) mobile homes assessed under IC 6-1.1-7.

(c) A township assessor is not required to appraise real property referred to in subsection (a) using the three (3) appraisal approaches listed in subsection (a) if the township assessor and the taxpayer agree before notice of the assessment is given to the taxpayer under section 22 of this chapter to the determination of the true tax value of the property by the assessor using one (1) of those appraisal approaches.

(d) To carry out this section, the department of local government finance may adopt rules for assessors to use in gathering and processing information for the application of the income capitalization method and the gross rent multiplier method. A taxpayer must verify under penalties for perjury any information provided to the assessor for use in the application of either method.

SECTION 10. IC 6-1.1-5.5-3, AS AMENDED BY P.L.245-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

(b) Except as provided in subsection (c), the auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency:

(1) before January 1, 2005, in an electronic format, if possible; and

(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.

The county assessor shall forward a copy of the sales disclosure forms

to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, **adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6**, and any other authorized purpose.

(c) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency:

(1) before January 1, 2005, in an electronic format, if possible; and

(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.

The township assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, **adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6**, and any other authorized purpose.

SECTION 11. IC 6-1.1-5.5-4.7, AS AMENDED BY P.L.90-2002, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4.7. (a) The assessment training fund is established for the purpose of receiving fees deposited under section 4 of this chapter. **Money in the fund may be used by the department of local government finance to cover expenses incurred in the development and administration of programs** for the training of assessment officials and employees of the department, ~~of local government finance~~, **including the examination and certification program required by IC 6-1.1-35.5.** The fund shall be administered by the treasurer of state.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same

manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 12. IC 6-1.1-7-2, AS AMENDED BY P.L.90-2002, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department of local government finance may adopt rules in order to provide a method for assessing mobile homes. These rules must be consistent with this article, **including the factors required under IC 6-1.1-31-7.**

SECTION 13. IC 6-1.1-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. If a township assessor, county assessor, or county property tax assessment board of appeals believes that any taxable tangible property has been omitted from or undervalued on the assessment rolls or the tax duplicate for any year or years, the official or board shall give written notice under IC 6-1.1-3-20 or IC 6-1.1-4-22 of the assessment or increase in assessment. The notice shall contain a general description of the property and a statement describing the taxpayer's right to ~~file a petition~~ **for a preliminary conference and to a review** with the county property tax assessment board of appeals under IC 6-1.1-15-1.

SECTION 14. IC 6-1.1-15-1, AS AMENDED BY P.L.178-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A taxpayer may obtain a review by the county property tax assessment board of appeals of a county or township official's action with respect to the assessment of the taxpayer's tangible property if the official's action requires the giving of notice to the taxpayer. ~~The taxpayer and county or township official whose original determination is under review are parties to the proceeding before the county property tax assessment board of appeals.~~ At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

- (1) the opportunity for review under this section, **including an informal preliminary conference with the county or township official referred to in this subsection;** and
 - (2) the procedures the taxpayer must follow in order to obtain review under this section.
- (b) In order to appeal a current assessment and have a change in the

assessment effective for the most recent assessment date, the taxpayer must ~~file a petition with the assessor of the county in which the action is taken:~~ **request in writing a preliminary conference with the county or township official referred to in subsection (a):**

- (1) within forty-five (45) days after notice of a change in the assessment is given to the taxpayer; or
- (2) May 10 of that year;

whichever is later. The county ~~assessor or township official referred to in subsection (a)~~ **shall** notify the county auditor that the assessment is under appeal. **The preliminary conference required under this subsection is a prerequisite to a review by the county property tax assessment board of appeals under subsection (i).**

(c) A change in an assessment made as a result of an appeal filed:

- (1) in the same year that notice of a change in the assessment is given to the taxpayer; and
- (2) after the time prescribed in subsection (b);

becomes effective for the next assessment date.

(d) A taxpayer may appeal a current real property assessment in a year even if the taxpayer has not received a notice of assessment in the year. If an appeal is filed on or before May 10 of a year in which the taxpayer has not received notice of assessment, a change in the assessment resulting from the appeal is effective for the most recent assessment date. If the appeal is filed after May 10, the change becomes effective for the next assessment date.

(e) The written request for a preliminary conference that is required under subsection (b) must include the following information:

- (1) The name of the taxpayer.**
- (2) The address and parcel or key number of the property.**
- (3) The address and telephone number of the taxpayer.**

(e) The department of local government finance shall prescribe the form of the petition for review of an assessment determination by a township assessor. The department shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to the average individual. An appeal of such a determination must be made on the form prescribed by the department. The form must require the petitioner to specify the following:

(1) The physical characteristics of the property in issue that bear on the assessment determination:

(2) All other facts relevant to the assessment determination:

(3) The reasons why the petitioner believes that the assessment determination by the township assessor is erroneous:

(f) The department of local government finance shall prescribe a form for a response by the township assessor to the petition for review of an assessment determination. The department shall issue instructions for completion of the form. The form must require the township assessor to indicate:

(1) agreement or disagreement with each item indicated on the petition under subsection (e); and

(2) the reasons why the assessor believes that the assessment determination is correct:

(g) Immediately upon receipt of a timely filed petition on the form prescribed under subsection (e), the county assessor shall forward a copy of the petition to the township assessor who made the challenged assessment. (f) The township assessor **county or township official referred to in subsection (a)** shall, within thirty (30) days after the receipt of the petition, **a written request for a preliminary conference**, attempt to hold a preliminary conference with the petitioner and taxpayer to resolve as many issues as possible by:

(1) discussing the specifics of the taxpayer's reassessment;

(2) reviewing the taxpayer's property record card;

(3) explaining to the taxpayer how the reassessment was determined;

(4) providing to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the reassessment;

(5) noting and considering objections of the taxpayer;

(6) considering all errors alleged by the taxpayer; and

(7) otherwise educating the taxpayer about:

(A) the taxpayer's reassessment;

(B) the reassessment process; and

(C) the reassessment appeal process.

Within ten (10) days after the conference, the township assessor **county or township official referred to in subsection (a)** shall forward to the county auditor and county assessor a completed response

to the petition on the form prescribed under subsection (f). The county assessor shall immediately forward a copy of the response form to the petitioner and the county property tax assessment board of appeals the results of the conference on a form prescribed by the department of local government finance that must be completed and signed by the taxpayer and the official. The official and the taxpayer shall each retain a copy of the form for their records.

(g) The form submitted to the county property tax assessment board of appeals under subsection (f) must specify the following:

- (1) The physical characteristics of the property in issue that bear on the assessment determination.
- (2) All other facts relevant to the assessment determination.
- (3) A list of the reasons the taxpayer believes that the assessment determination by the county or township official referred to in subsection (a) is incorrect.
- (4) An indication of the agreement or disagreement by the official with each item listed under subdivision (3).
- (5) The reasons the official believes that the assessment determination is correct.

(h) If after the conference there are no items listed in the petition on the form submitted to the county property tax assessment board of appeals under subsection (f) on which there is disagreement:

- (1) the township assessor county or township official referred to in subsection (a) shall give notice to the petitioner, taxpayer, the county property tax assessment board of appeals, and the county assessor of the assessment in the amount agreed to by the petitioner taxpayer and the township assessor, official; and
- (2) the county property tax assessment board of appeals may reserve the right to change the assessment under ~~IC 6-1.1-9.~~

IC 6-1.1-13.

(i) If after the conference there are items listed in the petition form submitted under subsection (f) on which there is disagreement, the county property tax assessment board of appeals shall hold a hearing. The taxpayer and county or township official whose original determination is under review are parties to the proceeding before the board of appeals. Except as provided in subsections (k) and (l), the hearing must be held within ninety (90) days of the filing of the petition on those items of disagreement except as provided in

subsections ~~(h)~~ and ~~(i)~~: **official's receipt of the taxpayer's written request for a preliminary conference under subsection (b).** The taxpayer may present the taxpayer's reasons for disagreement with the assessment. The ~~township assessor or county assessor for the county or township official referred to in subsection (a)~~ must present the basis for the assessment decision on these items to the board of appeals at the hearing and the reasons the ~~petitioner's taxpayer's~~ appeal should be denied on those items. The board of appeals shall have a written record of the hearing and prepare a written statement of findings and a decision on each item within sixty (60) days of the hearing, except as provided in subsections ~~(h)~~ **(k)** and ~~(i)~~. ~~If the township assessor does not attempt to hold a preliminary conference, the board shall accept the appeal of the petitioner at the hearing: (l).~~

(j) If the township assessor does not attempt to hold a preliminary conference, the taxpayer may file a request in writing with the county assessor for a hearing before the property tax assessment board of appeals. If the board determines that the county or township official referred to in subsection (a) did not attempt to hold a preliminary conference, the board shall hold a hearing. The taxpayer and the county or township official whose original determination is under review are parties to the proceeding before the board of appeals. The hearing must be held within ninety (90) days of the receipt by the board of appeals of the taxpayer's hearing request under this subsection. The requirements of subsection (i) with respect to:

(1) participation in the hearing by the taxpayer and the township assessor or county assessor; and

(2) the procedures to be followed by the county board; apply to a hearing held under this subsection.

~~(h)~~ **(k)** This subsection applies to a county having a population of more than three hundred thousand (300,000). In the case of a petition filed after December 31, 2000, the county property tax assessment board of appeals shall:

(1) hold its hearing within one hundred eighty (180) days instead of ninety (90) days; and

(2) have a written record of the hearing and prepare a written statement of findings and a decision on each item within one hundred twenty (120) days after the hearing.

(~~h~~) **(l)** This subsection applies to a county having a population of three hundred thousand (300,000) or less. With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the county property tax assessment board of appeals shall:

- (1) hold its hearing within one hundred eighty (180) days instead of ninety (90) days; and
- (2) have a written record of the hearing and prepare a written statement of findings and a decision on each item within one hundred twenty (120) days after the hearing.

(~~h~~) **(m)** The county property tax assessment board of appeals:

- (1) may not require a taxpayer ~~that files a petition for review under this section~~ to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under subsection (~~g~~); **(i) or (j)**; and
- (2) may ~~require the parties to the appeal to file not more than ten (10) days before the date of the hearing required under subsection (g) lists of witnesses and exhibits to be introduced at the hearing.~~ **amend the form submitted under subsection (f) if the board determines that the amendment is warranted.**

SECTION 15. IC 6-1.1-15-2.1, AS AMENDED BY P.L.198-2001, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. (a) The county property tax assessment board of appeals may assess the tangible property in question.

(b) The county property tax assessment board of appeals shall, by mail, give notice of the date fixed for the hearing under section 1 of this chapter to the ~~petitioner~~, **taxpayer** and to the township assessor.

(c) ~~If a petition for review does not comply with the department of local government finance's instructions for completing the form prescribed under section 1(e) of this chapter, the county assessor shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition or statement with the county assessor that the petitioner believes the petition is not defective. If a statement is filed or the county assessor believes a corrected petition is not in compliance with section 1(e) of this chapter, the assessor shall forward the statement or corrected petition to the county property tax assessment board of appeals. Within~~

ten ~~(10)~~ days after receiving the statement or petition, the county property tax assessment board of appeals shall determine if the original or corrected petition is still not in compliance. The county property tax assessment board of appeals shall deny an original or a corrected petition for review if it does not substantially comply with the department of local government finance's instructions for completing the form prescribed under section ~~1(e)~~ of this chapter.

~~(d)~~ **(c)** The department of local government finance shall prescribe a form for use by the county property tax assessment board of appeals in processing petitions for a review of an assessment ~~determinations~~. **determination.** The department shall issue instructions for completion of the form. The form must require the county property tax assessment board of appeals to include a record of the hearing, findings on each item, and indicate agreement or disagreement with each item that is

~~(1)~~ indicated on the ~~petition form~~ submitted **by the taxpayer and the county or township official** under section ~~1(e)~~ **1(f)** of this chapter. ~~and~~

~~(2)~~ included in the township assessor's response under section ~~1(g)~~ of this chapter.

The form must also require the county property tax assessment board of appeals to indicate the issues in dispute for each item and its reasons in support of its resolution of those issues.

~~(e)~~ **(d)** After the hearing the county property tax assessment board of appeals shall, by mail, give notice of its determination to the ~~petitioner, taxpayer,~~ the township assessor, and the county assessor and shall include with the notice copies of the forms completed under subsection ~~(d)~~: **(c).**

SECTION 16. IC 6-1.1-15-3, AS AMENDED BY P.L.256-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A taxpayer may obtain a review by the Indiana board of a county property tax assessment board of appeals action with respect to the assessment of that taxpayer's tangible property if the county property tax assessment board of appeals' action requires the giving of notice to the taxpayer. A township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original determination under appeal under this section is a party to the review under this section to defend the determination. At the time

that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

- (1) the taxpayer's opportunity for review under this section; and
- (2) the procedures the taxpayer must follow in order to obtain review under this section.

(b) A township assessor or county assessor may obtain a review by the Indiana board of any assessment which the township assessor or the county assessor has made, upon which the township assessor or the county assessor has passed, or which has been made over the township assessor's or the county assessor's protest.

(c) In order to obtain a review by the Indiana board under this section, the party must file a petition for review with the appropriate county assessor within thirty (30) days after the notice of the county property tax assessment board of appeals action is given to the taxpayer.

(d) The Indiana board shall prescribe the form of the petition for review of an assessment determination by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to the average individual. An appeal of such a determination must be made on the form prescribed by the Indiana board. The form must require the petitioner to specify the following:

- (1) **If the county or township official held a preliminary conference under section 1(f) of this chapter**, the items listed in section ~~1(e)(1)~~ **1(g)(1)** and ~~1(e)(2)~~ **1(g)(2)** of this chapter.

- (2) The reasons why the petitioner believes that the assessment determination by the county property tax assessment board of appeals is erroneous.

(e) The county assessor shall transmit the petition for review to the Indiana board within ten (10) days after it is filed.

(f) If a township assessor or a member of the county property tax assessment board of appeals files a petition for review under this section concerning the assessment of a taxpayer's property, the county assessor must send a copy of the petition to the taxpayer.

SECTION 17. IC 6-1.1-15-4, AS AMENDED BY P.L.245-2003, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) After receiving a petition for review

which is filed under section 3 of this chapter, the Indiana board shall conduct a hearing at its earliest opportunity. The Indiana board may:

(1) assign:

(A) full;

(B) limited; or

(C) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

If the Indiana board conducts a site inspection of the property as part of its review of the petition, the Indiana board shall give notice to all parties of the date and time of the site inspection. The Indiana board is not required to assess the property in question. The Indiana board shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. The Indiana board shall give these notices at least thirty (30) days before the day fixed for the hearing. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an *amicus curiae* brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the *amicus curiae* brief shall be paid from the property reassessment fund under IC 6-1.1-4-27.5. The executive of a taxing unit may file an *amicus curiae* brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit.

(b) If a petition for review does not comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter, the Indiana board shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition. The Indiana board shall deny a corrected petition for review if it does not substantially comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter.

(c) The Indiana board shall prescribe a form for use in processing

petitions for review of actions by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form must require the Indiana board to indicate agreement or disagreement with each item that is:

- (1) **if the county or township official held a preliminary conference under section 1(f) of this chapter**, indicated on the petition submitted under ~~section 1(c) of this chapter~~; **that section by the taxpayer and the official;**
- (2) ~~included in the township assessor's response under section 1(g) of this chapter;~~ and
- ~~(3)~~ (2) included in the county property tax assessment board of appeals' findings, record, and determination under section ~~2.1(d)~~ **2.1(c)** of this chapter.

The form must also require the Indiana board to indicate the issues in dispute and its reasons in support of its resolution of those issues.

(d) After the hearing the Indiana board shall give the petitioner, the township assessor, the county assessor, and the county auditor:

- (1) notice, by mail, of its final determination;
- (2) a copy of the form completed under subsection (c); and
- (3) notice of the procedures they must follow in order to obtain court review under section 5 of this chapter.

(e) Except as provided in subsection (f), the Indiana board shall conduct a hearing not later than nine (9) months after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(f) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall conduct a hearing not later than one (1) year after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(g) Except as provided in subsection (h), the Indiana board shall make a determination not later than the later of ninety (90) days after the hearing or the date set in an extension order issued by the Indiana board.

(h) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall

make a determination not later than the later of one hundred eighty (180) days after the hearing or the date set in an extension order issued by the Indiana board.

(i) Except as provided in subsection (n), the Indiana board may not extend the final determination date under subsection (g) or (h) by more than one hundred eighty (180) days. If the Indiana board fails to make a final determination within the time allowed by this subsection, the entity that initiated the petition may:

(1) take no action and wait for the Indiana board to make a final determination; or

(2) petition for judicial review under section 5(g) of this chapter.

(j) A final determination must include separately stated findings of fact for all aspects of the determination. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Findings must be based exclusively upon the evidence on the record in the proceeding and on matters officially noticed in the proceeding. Findings must be based upon a preponderance of the evidence.

(k) The Indiana board may limit the scope of the appeal to the issues raised in the petition and the evaluation of the evidence presented to the county property tax assessment board of appeals in support of those issues only if all persons participating in the hearing required under subsection (a) agree to the limitation. A person participating in the hearing required under subsection (a) is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals.

(l) The Indiana board:

(1) may require the parties to the appeal to file not more than five (5) business days before the date of the hearing required under subsection (a) documentary evidence or summaries of statements of testimonial evidence; and

(2) may require the parties to the appeal to file not more than fifteen (15) business days before the date of the hearing required under subsection (a) lists of witnesses and exhibits to be introduced at the hearing.

(m) A party to a proceeding before the Indiana board shall provide to another party to the proceeding the information described in

subsection (l) if the other party requests the information in writing at least ten (10) days before the deadline for filing of the information under subsection (l).

(n) The county assessor may:

- (1) appear as an additional party if the notice of appearance is filed before the review proceeding; or
- (2) with the approval of the township assessor, represent the township assessor;

in a review proceeding under this section.

(o) The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation. The Indiana board may:

- (1) order that a final determination under this subsection has no precedential value; or
- (2) specify a limited precedential value of a final determination under this subsection.

SECTION 18. IC 6-1.1-15-10, AS AMENDED BY P.L.1-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If a petition for review to any board or a proceeding for judicial review in the tax court regarding an assessment or increase in assessment is pending, the taxes resulting from the assessment or increase in assessment are, notwithstanding the provisions of IC 6-1.1-22-9, not due until after the petition for review, or the proceeding for judicial review, is finally adjudicated and the assessment or increase in assessment is finally determined. However, even though a petition for review or a proceeding for judicial review is pending, the taxpayer shall pay taxes on the tangible property when the property tax installments come due, unless the collection of the taxes is stayed under IC 4-21.5-5-9 pending a final determination in the proceeding for judicial review. The amount of taxes which the taxpayer is required to pay, pending the final determination of the assessment or increase in assessment, shall be based on:

- (1) the assessed value reported by the taxpayer on the taxpayer's personal property return if a personal property assessment, or an

increase in such an assessment, is involved; or

(2) an amount based on the immediately preceding year's assessment of real property if an assessment, or increase in assessment, of real property is involved.

(b) If the petition for review or the proceeding for judicial review is not finally determined by the last installment date for the taxes, the taxpayer, upon showing of cause by a taxing official or at the tax court's discretion, may be required to post a bond or provide other security in an amount not to exceed the taxes resulting from the contested assessment or increase in assessment.

(c) Each county auditor shall keep separate on the tax duplicate a record of that portion of the assessed value of property

~~(1) on which a taxpayer is not required to pay taxes under subsection (a); or~~

~~(2) that is described in IC 6-1.1-17-0.5(b).~~

When establishing rates and calculating state school support, the department of local government finance shall ~~recognize the fact that a taxpayer is not required to pay taxes under certain circumstances: exclude from assessed value in the county the assessed value of property kept separate on the tax duplicate by the county auditor under IC 6-1.1-17-0.5(b).~~

SECTION 19. IC 6-1.1-15-11, AS AMENDED BY P.L.90-2002, SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. **(a)** If a review or appeal authorized under this chapter results in a reduction of the amount of an assessment or if the department of local government finance on its own motion reduces an assessment, the taxpayer is entitled to a credit in the amount of any overpayment of tax on the next successive tax installment, if any, due in that year. ~~ff~~ After the credit is given, **the county auditor shall:**

(1) determine if a further amount is due the taxpayer; ~~he may file a claim for and~~

(2) if a further amount is due the taxpayer, notwithstanding IC 5-11-10-1 and IC 36-2-6-2, amount due. ~~If the claim is allowed by The board of county commissioners, the county auditor shall, without a claim or an appropriation being required, pay the amount due the taxpayer.~~

The county auditor shall charge the amount refunded to the taxpayer

against the accounts of the various taxing units to which the overpayment has been paid. **The county auditor shall notify the county executive of the payment of the amount due and publish the allowance in the manner provided in IC 36-2-6-3.**

(b) The notice under subsection (a)(2) is treated as a claim by the taxpayer for the amount due referred to in that subsection.

SECTION 20. IC 6-1.1-17-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. (a) This section applies:

(1) to each governing body of a taxing unit that is not comprised of a majority of officials who are elected to serve on the governing body; and

(2) if the proposed property tax levy for the taxing unit for the ensuing calendar year is more than five percent (5%) greater than the property tax levy for the taxing unit for the current calendar year.

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include a school corporation. ~~or a public library district.~~

(c) If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or

(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body shall submit its proposed budget and property tax levy to the city or town fiscal body. The proposed budget and levy shall be submitted at least fourteen (14) days before the city or town fiscal body is required to hold budget approval hearings under this chapter.

(d) If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted at least fourteen (14) days before the county fiscal body is required to hold budget approval hearings under this chapter.

(e) The fiscal body of the city, town, or county (whichever applies) shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or

modify but not increase the proposed budget or tax levy. ~~However, the fiscal body may not reduce the proposed tax levy to an amount that is less than the maximum permissible levy under IC 6-1.1-18.5-3.~~

SECTION 21. IC 6-1.1-18-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) For purposes of this section, "maximum rate" refers to the maximum:**

- (1) property tax rate or rates; or**
- (2) special benefits tax rate or rates;**

referred to in the statutes listed in subsection (d).

(b) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (e) for taxes first due and payable in 2003 if subsection (e) had applied for taxes first due and payable in 2003.

(c) The maximum rate must be adjusted:

- (1) each time an annual adjustment of the assessed value of real property takes effect under IC 6-1.1-4-4.5; and**
- (2) each time a general reassessment of real property takes effect under IC 6-1.1-4-4.**

(d) The statutes to which subsection (a) refers are:

- (1) IC 8-10-5-17;**
- (2) IC 8-22-3-11;**
- (3) IC 8-22-3-25;**
- (4) IC 12-29-1-1;**
- (5) IC 12-29-1-2;**
- (6) IC 12-29-1-3;**
- (7) IC 12-29-2-13;**
- (8) IC 12-29-3-6;**
- (9) IC 13-21-3-12;**
- (10) IC 13-21-3-15;**
- (11) IC 14-27-6-30;**
- (12) IC 14-33-7-3;**
- (13) IC 14-33-21-5;**
- (14) IC 15-1-6-2;**
- (15) IC 15-1-8-1;**
- (16) IC 15-1-8-2;**
- (17) IC 16-20-2-18;**
- (18) IC 16-20-4-27;**
- (19) IC 16-20-7-2;**

- (20) IC 16-23-1-29;
- (21) IC 16-23-3-6;
- (22) IC 16-23-4-2;
- (23) IC 16-23-5-6;
- (24) IC 16-23-7-2;
- (25) IC 16-23-8-2;
- (26) IC 16-23-9-2;
- (27) IC 16-41-15-5;
- (28) IC 16-41-33-4;
- (29) IC 20-5-17.5-2;
- (30) IC 20-5-17.5-3;
- (31) IC 20-5-37-4;
- (32) IC 20-14-7-5.1;
- (33) IC 20-14-7-6;
- (34) IC 20-14-13-12;
- (35) IC 21-1-11-3;
- (36) IC 21-2-17-2;
- (37) IC 23-13-17-1;
- (38) IC 23-14-66-2;
- (39) IC 23-14-67-3;
- (40) IC 36-7-13-4;
- (41) IC 36-7-14-28;
- (42) IC 36-7-15.1-16;
- (43) IC 36-8-19-8.5;
- (44) IC 36-9-6.1-2;
- (45) IC 36-9-17.5-4;
- (46) IC 36-9-27-73;
- (47) IC 36-9-29-31;
- (48) IC 36-9-29.1-15;
- (49) IC 36-10-6-2;
- (50) IC 36-10-7-7;
- (51) IC 36-10-7-8;
- (52) IC 36-10-7.5-19; and
- (53) any statute enacted after December 31, 2003, that:
 - (A) establishes a maximum rate for any part of the:
 - (i) property taxes; or
 - (ii) special benefits taxes;
 - imposed by a political subdivision; and
 - (B) does not exempt the maximum rate from the

adjustment under this section.

(e) The new maximum rate under a statute listed in subsection (d) is the tax rate determined under STEP SEVEN of the following STEPS:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

SECTION 22. IC 6-1.1-18.5-1, AS AMENDED BY P.L.198-2001,

SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Ad valorem property tax levy for an ensuing calendar year" means the total property taxes imposed by a civil taxing unit for current property taxes collectible in that ensuing calendar year.

"Adopting county" means any county in which the county adjusted gross income tax is in effect.

"Civil taxing unit" means any taxing unit except a school corporation.

"Maximum permissible ad valorem property tax levy for the preceding calendar year" means ~~the greater of:~~

~~(1) the civil taxing unit's maximum permissible ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined under section 3 of this chapter; or~~

~~(2) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17, and after eliminating the effects of temporary excessive levy appeals and temporary adjustments made to the working maximum levy for the calendar year immediately preceding the ensuing calendar year, as determined by the department of local government finance.~~

"Taxable property" means all tangible property that is subject to the tax imposed by this article and is not exempt from the tax under IC 6-1.1-10 or any other law. For purposes of sections 2 and 3 of this chapter, the term "taxable property" is further defined in section 6 of this chapter.

"Unadjusted assessed value" means the assessed value of a civil taxing unit as determined by local assessing officials and the department of local government finance in a particular calendar year before the application of an annual adjustment under IC 6-1.1-4-4.5 for that particular calendar year or any calendar year since the last general reassessment preceding the particular calendar year.

SECTION 23. IC 6-1.1-18.5-12, AS AMENDED BY P.L.178-2002, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 12. (a) Any civil taxing unit that determines that it cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by section 3 of this chapter may:

(1) before September 20; or

(2) in the case of a request described in section 16 of this chapter, before December 31;

of the calendar year immediately preceding the ensuing calendar year appeal to the department of local government finance for relief from those levy limitations. In the appeal the civil taxing unit must state that it will be unable to carry out the governmental functions committed to it by law unless it is given the authority that it is petitioning for. The civil taxing unit must support these allegations by reasonably detailed statements of fact.

(b) The department of local government finance shall promptly deliver to the local government tax control board every appeal petition it receives under subsection (a) and any materials it receives relevant to those appeals. Upon receipt of an appeal petition, the local government tax control board shall immediately proceed to the examination and consideration of the merits of the civil taxing unit's appeal.

(c) In considering an appeal, the local government tax control board has the power to conduct hearings, require any officer or member of the appealing civil taxing unit to appear before it, or require any officer or member of the appealing civil taxing unit to provide the board with any relevant records or books.

(d) If an officer or member:

(1) fails to appear at a hearing of the local government tax control board after having been given written notice from the local government tax control board requiring his attendance; or

(2) fails to produce for the local government tax control board's use the books and records that the local government tax control board by written notice required the officer or member to produce;

then the local government tax control board may file an affidavit in the circuit court in the jurisdiction in which the officer or member may be found setting forth the facts of the failure.

(e) Upon the filing of an affidavit under subsection (d), the circuit

court shall promptly issue a summons, and the sheriff of the county within which the circuit court is sitting shall serve the summons. The summons must command the officer or member to appear before the local government tax control board, to provide information to the local government tax control board, or to produce books and records for the local government tax control board's use, as the case may be. Disobedience of the summons constitutes, and is punishable as, a contempt of the circuit court that issued the summons.

(f) All expenses incident to the filing of an affidavit under subsection (d) and the issuance and service of a summons shall be charged to the officer or member against whom the summons is issued, unless the circuit court finds that the officer or member was acting in good faith and with reasonable cause. If the circuit court finds that the officer or member was acting in good faith and with reasonable cause or if an affidavit is filed and no summons is issued, the expenses shall be charged against the county in which the affidavit was filed and shall be allowed by the proper fiscal officers of that county.

SECTION 24. IC 6-1.1-18.5-13, AS AMENDED BY P.L.245-2003, SECTION 16, AND AS AMENDED BY P.L.224-2003, SECTION 246, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

~~(1) Permission to the civil taxing unit to reallocate the amount set aside as a property tax replacement credit as required by IC 6-3.5-1.1 for a purpose other than property tax relief. However, whenever this occurs, the local government tax control board shall also state the amount to be reallocated.~~

~~(2)~~ (1) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.

~~(3)~~ (2) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this

chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's share of the costs of operating a court for the first full calendar year in which it is in existence.

~~(4)~~ (3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and three-hundredths (1.03):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the *sum of the* civil taxing unit's total assessed value of all taxable property *and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42* in the particular calendar year, divided by the *sum of the* civil taxing unit's total assessed value of all taxable property *and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42* in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the *sum of the* total assessed value of all taxable property in ~~the state~~ *all counties* *and the total assessed value of property tax deductions in all*

counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the total assessed value of all taxable property in ~~the state~~ all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

In addition, before the local government tax control board may recommend the relief allowed under this subdivision, the civil taxing unit must show a need for the increased levy because of special circumstances, and the local government tax control board must consider other sources of revenue and other means of relief. The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.

~~(5)~~ (4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing

unit for the immediately preceding calendar year; plus
 (ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus
 (iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

~~(6)~~ **(5)** Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

~~(7)~~ **(6)** Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's poor relief ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing poor relief under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's poor relief ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed

valuation before the increase.

~~(8)~~ (7) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

~~(9)~~ (8) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake

removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

~~(+)~~ (9) Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) *that operates a county jail or juvenile detention center that is subject to an order that:*

- (i) *was issued by a federal district court; and*
- (ii) *has not been terminated;*

(C) *that operates a county jail that fails to meet:*

- (i) *American Correctional Association Jail Construction Standards; and*
- (ii) *Indiana jail operation standards adopted by the department of correction; or*

(D) *that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.*

Before recommending an increase, the local government tax

control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

~~(H)~~ **(10)** Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

~~(I2)~~ **(11)** Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy

under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

~~(13)~~ **(12)** Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under ~~subdivision (1)~~ **this section to reallocate property tax replacement credits under IC 6-3.5-1.1** in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned **under this section** to have reallocated in 2001 ~~under subdivision (1)~~ for a purpose other than property tax relief.

SECTION 25. IC 6-1.1-18.5-16, AS AMENDED BY P.L.90-2002, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A civil taxing unit may request permission from the local government tax control board to impose an ad valorem property tax levy that exceeds the limits imposed by section 3 of this chapter if:

(1) the civil taxing unit experienced a property tax revenue shortfall that resulted from erroneous assessed valuation figures being provided to the civil taxing unit;

(2) the erroneous assessed valuation figures were used by the civil taxing unit in determining its total property tax rate; and

(3) the error in the assessed valuation figures was found after the civil taxing unit's property tax levy resulting from that total rate was finally approved by the department of local government finance.

(b) A civil taxing unit may request permission from the local government tax control board to impose an ad valorem property tax levy that exceeds the limits imposed by section 3 of this chapter if the civil taxing unit experienced a property tax revenue shortfall because of the payment of refunds that resulted from appeals

under this article and IC 6-1.5.

(c) If the local government tax control board determines that ~~such~~ a shortfall **described in subsection (a) or (b)** has occurred, it shall recommend to the department of local government finance that the civil taxing unit be allowed to impose a property tax levy exceeding the limit imposed by section 3 of this chapter, and the department ~~shall~~ **may** adopt such recommendation. However, the maximum amount by which the civil taxing unit's levy may be increased over the limits imposed by section 3 of this chapter equals the remainder of the civil taxing unit's property tax levy for the particular calendar year as finally approved by the department of local government finance minus the actual property tax levy collected by the civil taxing unit for that particular calendar year.

~~(c)~~ (d) Any property taxes collected by a civil taxing unit over the limits imposed by section 3 of this chapter under the authority of this section may not be treated as a part of the civil taxing unit's maximum permissible ad valorem property tax levy for purposes of determining its maximum permissible ad valorem property tax levy for future years.

~~(d)~~ (e) If the department of local government finance authorizes an excess tax levy under this section, it shall take appropriate steps to insure that the proceeds are first used to repay any loan made to the civil taxing unit for the purpose of meeting its current expenses.

SECTION 26. IC 6-1.1-18.5-17, AS AMENDED BY P.L.90-2002, SECTION 172, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) As used in this section, "levy excess" means the part of the ad valorem property tax levy actually collected by a civil taxing unit, for taxes first due and payable during a particular calendar year, that exceeds the civil taxing unit's ad valorem property tax levy, as approved by the department of local government finance under IC 6-1.1-17.

(b) A civil taxing unit's levy excess is valid and may not be contested on the grounds that it exceeds the civil taxing unit's levy limit for the applicable calendar year. However, the civil taxing unit shall deposit, except as provided in subsection (h), ~~the part of its levy that exceeds one hundred two percent (102%) of the civil taxing unit's ad valorem property tax levy for the applicable calendar year, as approved by the department of local government finance under IC 6-1.1-17,~~ excess in a special fund to be known as the civil taxing unit's levy

excess fund.

(c) The chief fiscal officer of a civil taxing unit may invest money in the civil taxing unit's levy excess fund in the same manner in which money in the civil taxing unit's general fund may be invested. However, any income derived from investment of the money shall be deposited in and becomes a part of the levy excess fund.

(d) The department of local government finance ~~may~~ **shall** require a civil taxing unit to include the amount in its levy excess fund in the civil taxing unit's budget fixed under IC 6-1.1-17.

(e) Except as provided by subsection (f), a civil taxing unit may not spend any money in its levy excess fund until the expenditure of the money has been included in a budget that has been approved by the department of local government finance under IC 6-1.1-17. For purposes of fixing its budget and for purposes of the **ad valorem** property tax levy limits imposed under this chapter, a civil taxing unit shall treat the money in its levy excess fund that the department of local government finance permits it to spend during a particular calendar year as part of its ad valorem property tax levy for that same calendar year.

(f) A civil taxing unit may transfer money from its levy excess fund to its other funds to reimburse those funds for amounts withheld from the civil taxing unit as a result of refunds paid under IC 6-1.1-26.

(g) Subject to the limitations imposed by this section, a civil taxing unit may use money in its levy excess fund for any lawful purpose for which money in any of its other funds may be used.

(h) If the amount that would, notwithstanding this subsection, be deposited in the levy excess fund of a civil taxing unit for a particular calendar year is less than one hundred dollars (\$100), no money shall be deposited in the levy excess fund of the unit for that year.

SECTION 27. IC 6-1.1-18.6-2, AS AMENDED BY P.L.273-1999, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2. A county may not impose a county family and children property tax levy for an ensuing calendar year that exceeds the ~~product of:~~ **levy determined under IC 12-19-7-4.**

~~(1) the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for the ensuing calendar year;~~
~~multiplied by~~

(2) the maximum county family and children property tax levy that the county could have imposed for the calendar year immediately preceding the ensuing calendar year under the limitations set by this section:

SECTION 28. IC 6-1.1-18.6-2.2, AS ADDED BY P.L.224-2003, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2.2. A county may not impose a county children's psychiatric residential treatment services property tax levy for an ensuing calendar year that exceeds the **product of: levy determined under IC 12-19-7.5-6.**

(1) the assessed value growth quotient determined under ~~IC 6-1.1-18.5-2~~ for the county for the ensuing calendar year; multiplied by

(2) the maximum county children's psychiatric residential treatment services property tax levy that the county could have imposed for the calendar year immediately preceding the ensuing calendar year under the limitations set by this section:

SECTION 29. IC 6-1.1-19-1.5, AS AMENDED BY P.L.276-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) The following definitions apply throughout this section and IC 21-3-1.7:

(1) "Adjustment factor" means the adjustment factor determined by the department of local government finance for a school corporation under IC 6-1.1-34.

(2) "Adjusted target property tax rate" means:

(A) the school corporation's target general fund property tax rate determined under IC 21-3-1.7-6.8; multiplied by

(B) the school corporation's adjustment factor.

(3) "Previous year property tax rate" means the school corporation's previous year general fund property tax rate after the reductions cited in IC 21-3-1.7-5(1), IC 21-3-1.7-5(2), and IC 21-3-1.7-5(3).

(b) Except as otherwise provided in this chapter, a school corporation may not, for a calendar year beginning after December 31, 2004, impose a general fund ad valorem property tax levy which exceeds the following:

STEP ONE: Determine the result of:

(A) the school corporation's adjusted target property tax rate;

minus

(B) the school corporation's previous year property tax rate.

STEP TWO: If the school corporation's adjusted target property tax rate:

(A) exceeds the school corporation's previous year property tax rate, perform the calculation under STEP THREE and not under STEP FOUR;

(B) is less than the school corporation's previous year property tax rate, perform the calculation under STEP FOUR and not under STEP THREE; or

(C) equals the school corporation's previous year property tax rate, determine the levy resulting from using the school corporation's adjusted target property tax rate and do not perform the calculation under STEP THREE or STEP FOUR.

STEP THREE: Determine the levy resulting from using the school corporation's previous year property tax rate after increasing the rate by the lesser of:

(A) the STEP ONE result; or

(B) five cents (\$0.05).

STEP FOUR: Determine the levy resulting from using the school corporation's previous year property tax rate after reducing the rate by the lesser of:

(A) the absolute value of the STEP ONE result; or

(B) five cents (\$0.05).

STEP FIVE: Determine the result of:

(A) the STEP TWO (C), STEP THREE, or STEP FOUR result, whichever applies; plus

(B) an amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

The maximum levy is to include the portion of any excessive levy and the levy for new facilities.

STEP SIX: Determine the result of:

(A) the STEP FIVE result; plus

(B) the product of:

(i) the weighted average of the amounts determined under IC 21-3-1.7-6.7(e) STEP NINE for all charter schools

attended by students who have legal settlement in the school corporation; multiplied by

(ii) thirty-five hundredths (0.35).

In determining the number of students for purposes of this STEP, each kindergarten pupil shall be counted as one-half (1/2) pupil.

The result determined under this STEP may not be included in the school corporation's adjusted base levy for the year following the year in which the result applies or in the school corporation's determination of tuition support.

(c) For purposes of this section, "total assessed value" ~~as adjusted under subsection (d)~~, with respect to a school corporation means the total assessed value of all taxable property for ad valorem property taxes first due and payable during that year.

~~(d) The department of local government finance may adjust the total assessed value of a school corporation to eliminate the effects of appeals and settlements arising from a statewide general reassessment of real property.~~

~~(e)~~ (d) The department of local government finance shall annually establish an assessment ratio and adjustment factor for each school corporation to be used upon the review and recommendation of the budget committee. The information compiled, including background documentation, may not be used in a:

- (1) review of an assessment under IC 6-1.1-8, IC 6-1.1-13, IC 6-1.1-14, or IC 6-1.1-15;
- (2) petition for a correction of error under IC 6-1.1-15-12; or
- (3) petition for refund under IC 6-1.1-26.

~~(f)~~ (e) All tax rates shall be computed by rounding the rate to the nearest one-hundredth of a cent (\$0.0001). All tax levies shall be computed by rounding the levy to the nearest dollar amount.

~~(g)~~ (f) For the calendar year beginning January 1, 2004, and ending December 31, 2004, a school corporation may impose a general fund ad valorem property tax levy in the amount determined under STEP ~~SEVEN EIGHT~~ of the following formula:

STEP ONE: Determine the quotient of:

- (A) the school corporation's 2003 assessed valuation; divided by
- (B) the school corporation's 2002 assessed valuation.

STEP TWO: Determine the greater of zero (0) or the difference between:

- (A) the STEP ONE amount; minus
- (B) one (1).

STEP THREE: Determine the lesser of eleven-hundredths (0.11) or the product of:

- (A) the STEP TWO amount; multiplied by
- (B) eleven-hundredths (0.11).

STEP FOUR: Determine the sum of:

- (A) the STEP THREE amount; plus
- (B) one (1).

STEP FIVE: Determine the product of:

- (A) the STEP FOUR amount; multiplied by
- (B) the school corporation's general fund ad valorem property tax levy for calendar year 2003.

STEP SIX: Determine the lesser of:

- (A) the STEP FIVE amount; or
- (B) the levy resulting from using the school corporation's previous year property tax rate after increasing the rate by five cents (\$0.05).

STEP SEVEN: Determine the result of:

- (A) the STEP SIX amount; plus
- (B) an amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

The maximum levy is to include the part of any excessive levy and the levy for new facilities.

STEP EIGHT: Determine the result of:

- (A) the STEP SEVEN result; plus
- (B) the product of:
 - (i) the weighted average of the amounts determined under IC 21-3-1.7-6.7(e) STEP NINE for all charter schools attended by students who have legal settlement in the school corporation; multiplied by
 - (ii) thirty-five hundredths (0.35).

In determining the number of students for purposes of this STEP, each kindergarten pupil shall be counted as one-half

(1/2) pupil.

The result determined under this STEP may not be included in the school corporation's adjusted base levy for the year following the year in which the result applies or in the school corporation's determination of tuition support.

SECTION 30. IC 6-1.1-19-1.7, AS AMENDED BY P.L.90-2002, SECTION 174, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.7. (a) As used in this section, "levy excess" means that portion of the ad valorem property tax levy actually collected by a school corporation, for taxes first due and payable during a particular calendar year, which exceeds the school corporation's total levy, as approved by the department of local government finance under IC 6-1.1-17, for those property taxes.

(b) A school corporation's levy excess is valid, and the general fund portion of a school corporation's levy excess may not be contested on the grounds that it exceeds the school corporation's general fund levy limit for the applicable calendar year. However, the school corporation shall deposit, except as provided in subsection (h), ~~that portion of a school corporation's~~ its levy excess ~~which exceeds one hundred two percent (102%) of the school corporation's total levy, as approved by the department of local government finance under IC 6-1.1-17, for the applicable calendar year;~~ in a special fund to be known as the school corporation's levy excess fund.

(c) The chief fiscal officer of a school corporation may invest money in the school corporation's levy excess fund in the same manner in which money in the school corporation's general fund may be invested. However, any income derived from investment of the money shall be deposited in and become a part of the levy excess fund.

(d) The department of local government finance ~~may~~ **shall** require a school corporation to include the amount in the school corporation's levy excess fund in the school corporation's budget fixed under IC 6-1.1-17.

(e) Except as provided in subsection (f), a school corporation may not spend any money in its levy excess fund until the expenditure of the money has been included in a budget that has been approved by the department of local government finance under IC 6-1.1-17. For purposes of fixing its budget and for purposes of the **ad valorem** property tax levy limits fixed under this chapter, a school corporation

shall treat the money in its levy excess fund that the department of local government finance permits the school corporation to spend during a particular calendar year as part of the school corporation's ad valorem property tax levy for that same calendar year.

(f) A school corporation may transfer money from its levy excess fund to its other funds to reimburse those funds for amounts withheld from the school corporation as a result of refunds paid under IC 6-1.1-26.

(g) Subject to the limitations imposed by this section, a school corporation may use money in its levy excess fund for any lawful purpose for which money in any of its other funds may be used.

(h) If the amount that would be deposited in the levy excess fund of a school corporation for a particular calendar year is less than one hundred dollars (\$100), no money shall be deposited in the levy excess fund of the school corporation for that year.

SECTION 31. IC 6-1.1-19-2, AS AMENDED BY P.L.178-2002, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A county board of tax adjustment may not approve or recommend the approval of an excessive tax levy.

(b) If a school corporation adopts or advertises an excessive tax levy, the county board of tax adjustment which reviews the school corporation's budget, tax levy, and tax rate shall reduce the excessive tax levy to the maximum normal tax levy.

(c) If a county board of tax adjustment approves, or recommends the approval of, an excessive tax levy for a school corporation, the auditor of the county for which the county board is acting shall reduce the excessive tax levy to the maximum normal tax levy. Such a reduction shall be set out in the notice required to be published by the auditor under IC 6-1.1-17-12, and an appeal shall be permitted therefrom as provided under IC 6-1.1-17 as modified by this chapter.

(d) Appeals from any action of a county board of tax adjustment or county auditor in respect of a school corporation's budget, tax levy, or tax rate may be taken as provided for by IC 6-1.1-17. Notwithstanding IC 6-1.1-17, a school corporation may appeal to the department of local government finance for emergency financial relief for the ensuing calendar year at any time before:

(1) September 20; or

(2) in the case of a request described in section 4.7(a) of this

chapter, December 31;

of the calendar year immediately preceding the ensuing calendar year.

(e) In the appeal petition in which a school corporation seeks emergency financial relief, the appellant school corporation shall allege that, unless it is given the emergency financial relief for which it petitions, it will be unable to carry out, in the ensuing calendar year, the public educational duty committed to it by law, and it shall support that allegation by reasonably detailed statements of fact.

(f) When an appeal petition in which a school corporation petitions for emergency financial relief is filed with the department of local government finance, the department shall include, in the notice of the hearing in respect of the petition that it is required to give under IC 6-1.1-17-16, a statement to the effect that the appellant school corporation is seeking emergency financial relief for the ensuing calendar year. A subsequent action taken by the department of local government finance in respect of such an appeal petition is not invalid, however, or otherwise affected, if the department fails to include such a statement in the hearing notice.

SECTION 32. IC 6-1.1-19-4.7, AS AMENDED BY P.L.90-2002, SECTION 182, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.7. (a) With respect to every appeal petition that:

- (1) is delivered to the tax control board by the department of local government finance under section 4.1 of this chapter; and
- (2) includes a request for emergency relief for the purpose of making up a shortfall that has resulted:

(A) whenever:

- (i) erroneous assessed valuation figures were provided to the school corporation;
- (ii) erroneous figures were used to determine the school corporation's total property tax rate; and
- (iii) the school corporation's general fund tax levy was reduced under IC 6-1.1-17-16(d); or

(B) **whenever the assessed valuation figures that were provided to and used by the school corporation to determine the property tax rate did not accurately reflect because of the payment of refunds that resulted from appeals filed by property owners; under this article and IC 6-1.5;**

the tax control board shall recommend to the department of local government finance that the school corporation receive emergency financial relief. The relief shall be in the form specified in section 4.5(b)(1) through 4.5(b)(7) of this chapter, or in a combination of the forms of relief specified in section 4.5(b)(1) through 4.5(b)(7) of this chapter.

(b) The tax control board shall, if the tax control board determines that a shortfall exists as described in subsection (a), recommend that a school corporation that appeals for the purpose stated in subsection (a) be permitted to collect an excessive tax levy for a specified calendar year in the amount of the difference between:

- (1) the school corporation's property tax levy for a particular year as finally approved by the department of local government finance; and
- (2) the school corporation's actual property tax levy for the particular year.

(c) With respect to each appeal petition that:

- (1) is delivered to the tax control board by the department of local government finance under section 4.1 of this chapter;
- (2) includes a request for emergency relief for the purpose of making up a shortfall that has resulted because of a delinquent property taxpayer; and
- (3) the tax control board finds that the balance in the school corporation's levy excess fund plus the property taxes collected for the school corporation is less than ninety-eight percent (98%) of the school corporation's property tax levy for that year, as finally approved by the department of local government finance;

the tax control board may recommend to the department of local government finance that the school corporation receive emergency financial relief in the form specified in section 4.5(b)(1) through 4.5(b)(7) of this chapter and be permitted to collect an excessive tax levy for a specified calendar year in the amount of the difference between the school corporation's property tax levy for a particular year, as finally approved by the department, and the school corporation's actual property tax collections plus any balance in the school corporation's levy excess fund.

(d) Every recommendation made by the tax control board under this section shall specify the amount of the excessive tax levy. The

department of local government finance ~~shall~~ **may** authorize the school board to make an excessive tax levy in accordance with the recommendation without any other proceeding. Whenever the department of local government finance authorizes an excessive tax levy under this subsection, the department shall take appropriate steps to ensure that the proceeds of the excessive tax levy are first used to repay any loan authorized under sections 4.3 through 5.3 of this chapter.

SECTION 33. IC 6-1.1-20-3.1, AS AMENDED BY P.L.178-2002, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004]: Sec. 3.1. A political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

- (1) The proper officers of a political subdivision shall:
 - (A) publish notice in accordance with IC 5-3-1; and
 - (B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;

of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.

- (2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:

- (A) publication in accordance with IC 5-3-1; and
 - (B) first class mail to the organizations described in subdivision (1)(B).

- (3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

- (A) The maximum term of the bonds or lease.
 - (B) The maximum principal amount of the bonds or the maximum lease rental for the lease.
 - (C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
 - (D) The purpose of the bonds or lease.

(E) A statement that any owners of real property within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(F) With respect to bonds issued or a lease entered into to open:

- (i) a new school facility; or
- (ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

(G) A statement of whether the school corporation expects to appeal as described in IC 6-1.1-19-4.4(a)(4) for an increased adjusted base levy to pay the estimated costs described in clause (F).

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

- (A) ~~two one~~ ~~hundred fifty (250)~~ **(100)** owners of real property within the political subdivision; or
- (B) ~~ten five~~ ~~percent (10%)~~ **(5%)** of the owners of real property within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county auditor's designated printer the petition forms to be used solely in the petition process described in this section. The county auditor shall issue to an owner or owners of real property within the political subdivision the number of petition forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that:

- (A) the carrier and signers must be owners of real property;**
- (B) the carrier must be a signatory on at least one (1) petition;**
- (C) after the signatures have been collected, the carrier**

must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county auditor under subdivision ~~(6)~~; **(7)**.

~~(6)~~ **(7)** Each petition must be filed with the county auditor not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

~~(7)~~ **(8)** The county auditor must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within fifteen (15) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

SECTION 34. IC 6-1.1-20-3.2, AS AMENDED BY P.L.178-2002, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004]: Sec. 3.2. If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

(1) The proper officers of the political subdivision shall give

notice of the applicability of the petition and remonstrance process by:

- (A) publication in accordance with IC 5-3-1; and
- (B) first class mail to the organizations described in section 3.1(1)(B) of this chapter.

A notice under this subdivision must include a statement that any owners of real property within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

- (A) petitions (described in subdivision (3)) in favor of the bonds or lease; and
- (B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of real property within the political subdivision. Each signature on a petition must be dated and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the county auditor under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county auditor's designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county auditor shall issue to an owner or owners of real property within the political subdivision the number of petition or remonstrance forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that:

- (A) the carrier and signers must be owners of real property;
- (B) the carrier must be a signatory on at least one (1) petition;
- (C) after the signatures have been collected, the carrier must

swear or affirm before a notary public that the carrier witnessed each signature; ~~and~~

(D) govern the closing date for the petition and remonstrance period; ~~and~~

(E) apply to the carrier under section 10 of this chapter.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners. The county auditor may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county auditor shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county auditor within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county auditor must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within fifteen (15) business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county auditor may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of real property within the political subdivision.

(6) If a greater number of owners of real property within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the

county auditor's certificate under subdivision (5). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(7) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance required by IC 6-1.1-18.5-8 or IC 6-1.1-19-8.

SECTION 35. IC 6-1.1-20-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004]: **Sec. 10. (a) If a petition and remonstrance process is commenced under section 3.2 of this chapter, during the sixty (60) day period commencing with the notice under section 3.2(1) of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:**

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the petition or remonstrance, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the petition or remonstrance (except as necessary to explain the project to the public) or to pay for the gathering of signatures on a petition or remonstrance. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the petition or

remonstrance during the employee's normal working hours or paid overtime.

(4) In the case of a school corporation, promoting a position on a petition or remonstrance by:

(A) using students to transport written materials to their residences; or

(B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a petition or remonstrance that are part of the normal and regular conduct of the employee's office or agency.

(b) A person may not solicit or collect signatures for a petition or remonstrance on property owned or controlled by the political subdivision.

SECTION 36. IC 6-1.1-21-2, AS AMENDED BY P.L.224-2003, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5, is to be filed on or before March 1 of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:

(i) ~~IC 6-1.1-18.5-13(5)~~ **IC 6-1.1-18.5-13(4)** and ~~IC 6-1.1-18.5-13(6)~~ **IC 6-1.1-18.5-13(5)** filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

- (i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
- (ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
- (G) the amount of property taxes imposed in the county for the stated assessment year under:
 - (i) IC 21-2-15 for a capital projects fund; plus
 - (ii) IC 6-1.1-19-10 for a racial balance fund; plus
 - (iii) IC 20-14-13 for a library capital projects fund; plus
 - (iv) IC 20-5-17.5-3 for an art association fund; plus
 - (v) IC 21-2-17 for a special education preschool fund; plus
 - (vi) IC 21-2-11.6 for a referendum tax levy fund; plus
 - (vii) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus
 - (viii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus
- (H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5 or any other law; minus
- (I) for each township in the county, the lesser of:
 - (i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE, whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from

an appeal described in ~~IC 6-1.1-18.5-13(5)~~
IC 6-1.1-18.5-13(4) filed after December 31, 1982; or

(ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus

(J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus

(K) for each county, the sum of:

(i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b); and

(ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) for property taxes payable in each year after 1995; plus

(2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus

(3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus

(4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus

(5) the difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR;

minus

(B) the amount the civil taxing units' levies were increased because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare on or before March 1 of each year under IC 6-1.1-22-3.

(j) "Eligible property tax replacement amount" is equal to the sum of the following:

(1) Sixty percent (60%) of the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year.

(2) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on real property for a stated assessment year.

(3) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on tangible personal property, excluding business personal property, for an assessment year.

(k) "Business personal property" means tangible personal property (other than real property) that is being:

(1) held for sale in the ordinary course of a trade or business; or

(2) held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means the sum of the following:

(1) Sixty percent (60%) of a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund for a stated assessment year.

(2) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on real property.

(3) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on tangible personal property other than business personal property.

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund.

SECTION 37. IC 6-1.1-21-5, AS AMENDED BY P.L.1-2003, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each year the taxpayers of each county shall receive a credit for property tax replacement in the amount of each taxpayer's property tax replacement credit amount for taxes which:

(1) under IC 6-1.1-22-9 are due and payable in May and November of that year; **or**

(2) under IC 6-1.1-22-9.5 are due in installments established by the department of local government finance for that year.

The credit shall be applied to each installment of taxes. The dollar amount of the credit for each taxpayer shall be determined by the county auditor, based on data furnished by the department of local government finance.

(b) The tax liability of a taxpayer for the purpose of computing the credit for a particular year shall be based upon the taxpayer's tax liability as is evidenced by the tax duplicate for the taxes payable in that year, plus the amount by which the tax payable by the taxpayer had been reduced due to the application of county adjusted gross income tax revenues to the extent the county adjusted gross income tax revenues were included in the determination of the total county tax levy for that year, as provided in sections 2(g) and 3 of this chapter, adjusted, however, for any change in assessed valuation which may have been made pursuant to a post-abstract adjustment if the change is set forth on the tax statement or on a corrected tax statement stating the taxpayer's tax liability, as prepared by the county treasurer in accordance with IC 6-1.1-22-8(a). However, except when using the term under section 2(l)(1) of this chapter, the tax liability of a taxpayer

does not include the amount of any property tax owed by the taxpayer that is attributable to that part of any property tax levy subtracted under section 2(g)(1)(B), 2(g)(1)(C), 2(g)(1)(D), 2(g)(1)(E), 2(g)(1)(F), 2(g)(1)(G), 2(g)(1)(H), 2(g)(1)(I), 2(g)(1)(J), or 2(g)(1)(K) of this chapter in computing the total county tax levy.

(c) The credit for taxes payable in a particular year with respect to mobile homes which are assessed under IC 6-1.1-7 is equivalent to the taxpayer's property tax replacement credit amount for the taxes payable with respect to the assessments plus the adjustments stated in this section.

(d) Each taxpayer in a taxing district that contains all or part of an economic development district that meets the requirements of section 5.5 of this chapter is entitled to an additional credit for property tax replacement. This credit is equal to the product of:

- (1) the STEP TWO quotient determined under section 4(a)(3) of this chapter for the taxing district; multiplied by
- (2) the taxpayer's taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

SECTION 38. IC 6-1.1-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in IC 6-1.1-7-7, **section 9.5 of this chapter**, and subsection (b), the property taxes assessed for a year under this article are due in two (2) equal installments on May 10 and November 10 of the following year.

(b) A county council may adopt an ordinance to require a person to pay ~~his~~ **the person's** property tax liability in one (1) installment, if the tax liability for a particular year is less than twenty-five dollars (\$25). If the county council has adopted such an ordinance, then whenever a tax statement mailed under section 8 of this chapter shows that the person's property tax liability for a year is less than twenty-five dollars (\$25) for the property covered by that statement, the tax liability for that year is due in one (1) installment on May 10 of that year.

(c) If property taxes are not paid on or before the due date, the penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent taxes.

(d) Notwithstanding any other law, a property tax liability of less than five dollars (\$5) is increased to five dollars (\$5). The difference between the actual liability and the five dollar (\$5) amount that appears

on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.

SECTION 39. IC 6-1.1-22-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.5. (a) This section applies only to property taxes first due and payable in a year that begins after December 31, 2003:**

- (1) with respect to a homestead (as defined in IC 6-1.1-20.9-1); and**
- (2) that are not payable in one (1) installment under section 9(b) of this chapter.**

(b) At any time before the mailing or transmission of tax statements for a year under section 8 of this chapter, a county may petition the department of local government finance to establish a schedule of installments for the payment of property taxes with respect to:

- (1) real property that are based on the assessment of the property in the immediately preceding year; or**
- (2) a mobile home or manufactured home that is not assessed as real property that are based on the assessment of the property in the current year.**

The county fiscal body (as defined in IC 36-1-2-6), the county auditor, and the county treasurer must approve a petition under this subsection.

(c) The department of local government finance:

- (1) may not establish a date for:**
 - (A) an installment payment that is earlier than May 10 of the year in which the tax statement is mailed or transmitted;**
 - (B) the first installment payment that is later than November 10 of the year in which the tax statement is mailed or transmitted; or**
 - (C) the last installment payment that is later than May 10 of the year immediately following the year in which the tax statement is mailed or transmitted; and**
- (2) shall:**
 - (A) prescribe the form of the petition under subsection (b);**
 - (B) determine the information required on the form; and**
 - (C) notify the county fiscal body, the county auditor, and**

the county treasurer of the department's determination on the petition not later than twenty (20) days after receiving the petition.

(d) Revenue from property taxes paid under this section in the year immediately following the year in which the tax statement is mailed or transmitted under section 8 of this chapter:

(1) is not considered in the determination of a levy excess under IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7 for the year in which the property taxes are paid; and

(2) may be:

(A) used to repay temporary loans entered into by a political subdivision for; and

(B) expended for any other reason by a political subdivision in the year the revenue is received under an appropriation from;

the year in which the tax statement is mailed or transmitted under section 8 of this chapter.

SECTION 40. IC 6-1.1-22.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 22.5. Provisional Property Tax Statements

Sec. 1. As used in this chapter, "commissioner" refers to the commissioner of the department of local government finance.

Sec. 2. As used in this chapter, "provisional statement" refers to a provisional property tax statement required by section 6 of this chapter.

Sec. 3. As used in this chapter, "property taxes" include special assessments.

Sec. 4. As used in this chapter, "reconciling statement" refers to a reconciling property tax statement required by section 11 of this chapter.

Sec. 5. As used in this chapter, "tax liability" includes liability for special assessments and refers to liability for property taxes after the application of all allowed deductions and credits.

Sec. 6. (a) With respect to property taxes payable under this article on assessments determined for the 2003 assessment date or the assessment date in any later year, the county treasurer may, except as provided by section 7 of this chapter, use a provisional statement under this chapter if the county auditor fails to deliver

the abstract for that assessment date to the county treasurer under IC 6-1.1-22-5 before March 16 of the year following the assessment date.

(b) The county treasurer shall give notice of the provisional statement, including disclosure of the method that is to be used in determining the tax liability to be indicated on the provisional statement, by publication one (1) time:

- (1) in the form prescribed by the department of local government finance; and
- (2) in the manner described in IC 6-1.1-22-4(b).

The notice may be combined with the notice required under section 10 of this chapter.

Sec. 7. (a) The county auditor of a county or fifty (50) property owners in the county may, not more than five (5) days after the publication of the notice required under section 6 of this chapter, request in writing that the department of local government finance waive the use of a provisional statement under this chapter as to that county for a particular assessment date.

(b) Upon receipt of a request under subsection (a), the department of local government finance shall give notice of a hearing concerning the request in the manner provided by IC 5-3-1. The notice must state:

- (1) the date and time of the hearing;
- (2) the location of the hearing, which must be in the county; and
- (3) that the purpose of the hearing is to hear:
 - (A) the request of the county treasurer and county auditor to waive the requirements of this chapter; and
 - (B) taxpayers' comments regarding that request.

(c) After the hearing, the department of local government finance may waive the use of a provisional statement under this chapter for a particular assessment date as to the county making the request if the department finds that the petitioners have presented sufficient evidence to establish that although the abstract required by IC 6-1.1-22-5 was not delivered in a timely manner:

- (1) the abstract;
 - (A) was delivered as of the date of the hearing; or
 - (B) will be delivered not later than a date specified by the county auditor and county treasurer; and

(2) sufficient time remains or will remain after the date or anticipated date of delivery of the abstract to:

(A) permit the timely preparation and delivery of property tax statements in the manner provided by IC 6-1.1-22; and

(B) render the use of a provisional statement under this chapter unnecessary.

Sec. 8. A provisional statement must:

(1) be on a form approved by the state board of accounts;

(2) except as provided in emergency rules adopted under section 20 of this chapter, indicate tax liability in the amount of ninety percent (90%) of the tax liability that was payable in the same year as the assessment date for the property for which the provisional statement is issued;

(3) indicate:

(A) that the tax liability under the provisional statement is determined as described in subdivision (2); and

(B) that property taxes billed on the provisional statement:

(i) are due and payable in the same manner as property taxes billed on a tax statement under IC 6-1.1-22-8; and

(ii) will be credited against a reconciling statement;

(4) include a statement in the following or a substantially similar form, as determined by the department of local government finance:

"Under Indiana law, _____ County (insert county) has elected to send provisional statements because the county did not complete the abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in (insert year) in each taxing district before March 16, (insert year). The statement is due to be paid in installments on May 10 and November 10. The statement is based on ninety percent (90%) of your tax liability for taxes payable in (insert year), subject to adjustment for any new construction on your property or any damage to your property. After the abstract of property is complete, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in (insert year), minus the amount you pay under this provisional statement.";

(5) indicate liability for:

(A) delinquent:

- (i) taxes; and
- (ii) special assessments;
- (B) penalties; and
- (C) interest;

is allowed to appear on the tax statement under IC 6-1.1-22-8 for the May installment of property taxes in the year in which the provisional tax statement is issued; and

- (6) include any other information the county treasurer requires.

Sec. 9. Except as provided in section 12 of this chapter, property taxes billed on a provisional statement are due in two (2) equal installments on May 10 and November 10 of the year following the assessment date covered by the provisional statement.

Sec. 10. If a provisional statement is used, the county treasurer shall give notice of tax rates required under IC 6-1.1-22-4 for the reconciling statement.

Sec. 11. As soon as possible after the receipt of the abstract referred to in section 6 of this chapter, the county treasurer shall:

- (1) give the notice required by IC 6-1.1-22-4; and
- (2) mail or transmit reconciling statements under section 12 of this chapter.

Sec. 12. (a) Except as provided by subsection (c), each reconciling statement must indicate:

- (1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;
- (2) the total amount paid under the provisional statement for the property for which the reconciling statement is issued;
- (3) if the amount under subdivision (1) exceeds the amount under subdivision (2), that the excess is payable by the taxpayer:

- (A) as a final reconciliation of the tax liability; and
- (B) not later than:

- (i) thirty (30) days after the date of the reconciling statement; or
- (ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and
- (4) if the amount under subdivision (2) exceeds the amount

under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(b) If, upon receipt of the abstract referred to in section 6 of this chapter, the county treasurer determines that it is possible to complete the:

- (1) preparation; and
- (2) mailing or transmittal;

of the reconciling statement at least thirty (30) days before the due date of the November installment specified in the provisional statement, the county treasurer may request in writing that the department of local government finance permit the county treasurer to issue a reconciling statement that adjusts the amount of the November installment that was specified in the provisional statement. If the department approves the county treasurer's request, the county treasurer shall prepare and mail or transmit the reconciling statement at least thirty (30) days before the due date of the November installment specified in the provisional statement.

(c) A reconciling statement prepared under subsection (b) must indicate:

- (1) the actual property tax liability under this article on the assessment determined for the assessment date for the property for which the reconciling statement is issued;
- (2) the total amount of the May installment paid under the provisional statement for the property for which the reconciling statement is issued;
- (3) if the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount of the November installment that is payable by the taxpayer:
 - (A) as a final reconciliation of the tax liability; and
 - (B) not later than:
 - (i) November 10; or
 - (ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and
- (4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

Sec. 13. Taxpayers shall make all payments under this chapter

to the county treasurer. The board of county commissioners may authorize the county treasurer to open temporary offices to receive payments under this chapter in municipalities in the county other than the county seat.

Sec. 14. Not later than fifty-one (51) days after the due date of a provisional or reconciling statement under this chapter, the county auditor shall:

- (1) file with the auditor of state a report of settlement; and
- (2) distribute tax collections to the appropriate taxing units.

Sec. 15. If a county auditor fails to make a distribution of tax collections under section 14 of this chapter, a taxing unit that was to receive a distribution may recover interest on the undistributed tax collections at the same rate and in the same manner that interest may be recovered under IC 6-1.1-27-1(b).

Sec. 16. IC 6-1.1-15:

- (1) does not apply to a provisional statement; and
- (2) applies to a reconciling statement.

Sec. 17. IC 6-1.1-37-10 applies to:

- (1) a provisional statement; and
- (2) a reconciling statement;

in the same manner that IC 6-1.1-37-10 applies to an installment of property taxes.

Sec. 18. For purposes of IC 6-1.1-24-1(a)(1):

- (1) the May installment on a provisional statement is considered to be the taxpayer's spring installment of property taxes;
- (2) except as provided in subdivision (3), payment on a reconciling statement is considered to be due before the due date of the May installment of property taxes payable in the following year; and
- (3) payment on a reconciling statement described in section 12(b) of this chapter is considered to be the taxpayer's fall installment of property taxes.

Sec. 19. The other provisions of this article supplement the provisions of this chapter concerning the collection of property taxes.

Sec. 20. For purposes of a provisional statement under this chapter, the department of local government finance may adopt emergency rules under IC 4-22-2-37.1 to provide a methodology

for a county treasurer to issue provisional statements with respect to real property, taking into account new construction of improvements placed on the real property, damage, and other losses related to the real property:

(1) after March 1 of the year preceding the assessment date to which the provisional statement applies; and

(2) before the assessment date to which the provisional statement applies.

SECTION 41. IC 6-1.1-31-3, AS AMENDED BY P.L.90-2002, SECTION 219, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. In the preparation of rules, regulations, property tax forms, and property tax returns, the department of local government finance may consider:

(1) data compiled by the federal government;

(2) data compiled by this state and its taxing authorities;

(3) data compiled and studies made by a state college or university;

(4) generally accepted practices of appraisers, including generally accepted property assessment valuation and mass appraisal principles and practices;

(5) generally accepted indices of construction costs;

(6) for assessment dates after February 28, 2001, generally accepted indices of income accruing from real property;

(7) sales data compiled for generally comparable properties;
and

~~(7)~~ **(8)** any other information which is available to the department of local government finance.

SECTION 42. IC 6-1.1-31-5, AS AMENDED BY P.L.90-2002, SECTION 221, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **Subject to this article,** the rules ~~promulgated~~ **adopted** by the department of local government finance are the basis for determining the true tax value of tangible property.

(b) Local assessing officials, members of the county property tax assessment board of appeals, and county assessors shall:

(1) comply with the rules, appraisal manuals, bulletins, and directives adopted by the department of local government finance;

(2) use the property tax forms, property tax returns, and notice

forms prescribed by the department; and

(3) collect and record the data required by the department.

(c) In assessing tangible property, the township assessors, members of the county property tax assessment board of appeals, and county assessors may consider factors in addition to those prescribed by the department of local government finance if the use of the additional factors is first approved by the department. Each township assessor, of the county property tax assessment board of appeals, and the county assessor shall indicate on his records for each individual assessment whether:

(1) only the factors contained in the department's rules, forms, and returns have been considered; or

(2) factors in addition to those contained in the department's rules, forms, and returns have been considered.

SECTION 43. IC 6-1.1-31-6, AS AMENDED BY P.L.90-2002, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) With respect to the assessment of real property, the rules of the department of local government finance shall provide for:

(1) the classification of land on the basis of:

(i) acreage;

(ii) lots;

(iii) size;

(iv) location;

(v) use;

(vi) productivity or earning capacity;

(vii) applicable zoning provisions;

(viii) accessibility to highways, sewers, and other public services or facilities; and

(ix) any other factor that the department determines by rule is just and proper; and

(2) the classification of improvements on the basis of:

(i) size;

(ii) location;

(iii) use;

(iv) type and character of construction;

(v) age;

(vi) condition;

- (vii) cost of reproduction; and
- (viii) any other factor that the department determines by rule is just and proper.

(b) With respect to the assessment of real property, the rules of the department of local government finance shall include instructions for determining:

- (1) the proper classification of real property;
- (2) the size of real property;
- (3) the effects that location and use have on the value of real property;
- (4) the depreciation, including physical deterioration and obsolescence, of real property;
- (5) the cost of reproducing improvements;
- (6) the productivity or earning capacity of:

(A) agricultural land; and

(B) real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more;

(7) sales data for generally comparable properties; and

~~(7)~~ **(8)** the true tax value of real property based on the factors listed in this subsection and any other factor that the department determines by rule is just and proper.

(c) With respect to the assessment of real property, true tax value does not mean fair market value. **Subject to this article**, true tax value is the value determined under the rules of the department of local government finance.

SECTION 44. IC 6-1.1-31-7, AS AMENDED BY P.L.90-2002, SECTION 223, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) With respect to the assessment of personal property, the rules of the department of local government finance shall provide for the classification of personal property on the basis of:

- (1) date of purchase;
- (2) location;
- (3) use;
- (4) depreciation, obsolescence, and condition; and
- (5) any other factor that the department determines by rule is just and proper.

(b) With respect to the assessment of personal property, the rules of the department of local government finance shall include instructions for determining:

- (1) the proper classification of personal property;
- (2) the effect that location has on the value of personal property;
- (3) the cost of reproducing personal property;
- (4) the depreciation, including physical deterioration and obsolescence, of personal property;
- (5) the productivity or earning capacity of mobile homes regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more;**
- (6) sales data for generally comparable mobile homes; and**
- ~~(5)~~ **(7) the true tax value of personal property based on the factors listed in this subsection and any other factor that the department determines by rule is just and proper.**

(c) In providing for the classification of personal property and the instructions for determining the items listed in subsection (b), the department of local government finance shall not include the value of land as a cost of producing tangible personal property subject to assessment.

(d) With respect to the assessment of personal property, true tax value does not mean fair market value. **Subject to this article**, true tax value is the value determined under rules of the department of local government finance.

SECTION 45. IC 6-1.1-35-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.1. **(a)** Each county assessor and each elected assessor ~~must be a certified who has not attained the certification of a "level two" assessor-appraiser under IC 6-1.1-35.5~~ **or must** employ at least one (1) certified "level two" assessor-appraiser.

(b) Each elected county assessor, township assessor, or elected trustee-assessor ~~is expected to must:~~

- (1) attain the certification of a "level one" assessor-appraiser within one (1) year after taking office; and**
- (2) attain the certification of a "level two" assessor-appraiser within two (2) years after taking office.**

An assessor or trustee-assessor who does not comply with this subsection forfeits the assessor's or trustee-assessor's office.

(c) A county assessor, township assessor, or trustee-assessor appointed to fill a vacancy resulting from a forfeiture of office under subsection (b) is subject to the requirements of subsection (b).

SECTION 46. IC 6-1.1-35.5-1, AS AMENDED BY P.L.90-2002, SECTION 253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004]: Sec. 1. The department of local government finance shall conduct an assessor-appraiser examination and certification program. **The department shall design and implement the program in a manner that maximizes the number of certified assessor-appraisers involved in the assessment process.**

SECTION 47. IC 6-1.1-35.5-4, AS AMENDED BY P.L.90-2002, SECTION 255, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004]: Sec. 4. (a) The level one examination shall be given in July, and the level two examination shall be given in August. Both level examinations also shall be offered annually immediately following the conference of the department of local government finance and at any other times that coordinate with training sessions conducted under IC 6-1.1-35.2-2. The department of local government finance may also give either or both examinations at other times throughout the year.

(b) Examinations shall be held each year, at the times prescribed in subsection (a), in Indianapolis and at not less than four (4) other convenient locations chosen by the department of local government finance.

(c) The department of local government finance may not limit the number of individuals who take the examination and shall provide an opportunity for all enrollees at each session to take the examination at that session.

(d) The department of local government finance shall:

- (1) give both the level one examination and the level two examination in an open book format; and**
- (2) design both examinations to approximate the work an assessing official is required to perform, including the use of appropriate computer applications.**

SECTION 48. IC 6-1.1-37-9, AS AMENDED BY P.L.198-2001, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies when:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;

(2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or (a)(2) while a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding; or

(3) the collection of certain ad valorem property taxes has been stayed under IC 4-21.5-5-9, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of ten percent (10%) per year from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is ultimately required to pay in excess of the amount that the taxpayer is required to pay under IC 6-1.1-15-10(a)(1) while a petition for review or a judicial proceeding has been pending at the overpayment rate established under Section 6621(c)(1) of the Internal Revenue Code in effect on the original due date or dates for those taxes from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(d) With respect to an action or determination described in subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:

(1) the next May 10; or

(2) the next November 10;
whichever occurs first.

(e) A taxpayer shall, **to the extent that the penalty is not waived under section 10.5 of this chapter**, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for payment prescribed in subsection (d) if:

- (1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and
- (2) the taxpayer either:
 - (A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or
 - (B) voluntarily signed and filed an assessment return for the taxes.

(f) If subsection (e) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, **to the extent that the penalty is not waived under section 10.5 of this chapter**, begin paying the penalty prescribed in section 10 of this chapter on:

- (1) the next May 10 which follows the date for payment prescribed in subsection (d); or
- (2) the next November 10 which follows the date for payment prescribed in subsection (d);

whichever occurs first.

(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:

- (1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;
- (2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and
- (3) the assessment:
 - (A) would have been made on the normal assessment date if the error or neglect had not occurred; or
 - (B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had

not occurred.

SECTION 49. IC 6-1.1-37-10, AS AMENDED BY P.L.90-2002, SECTION 262, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) **Except as provided in section 10.5 of this chapter**, if an installment of property taxes is not completely paid on or before the due date, a penalty equal to ten percent (10%) of the amount of delinquent taxes shall be added to the unpaid portion in the year of the initial delinquency.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates in May and November of each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. **With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:**

(1) six (6) months; or

(2) a multiple of six (6) months.

(c) These The penalties **under subsection (b)** are imposed only on the principal amount of the delinquent taxes. ~~However,~~

(d) If the department of local government finance determines that an emergency has occurred which precludes the mailing of the tax statement in any county at the time set forth in IC 6-1.1-22-8, the department shall establish by order a new date on which the installment of taxes in that county is due and no installment is delinquent if paid by the date so established.

~~(b)~~ **(e)** If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one (1) of those holidays.

~~(e)~~ **(f)** A payment to the county treasurer is considered to have been paid by the due date if the payment is:

(1) received on or before the due date to the county treasurer or a collecting agent appointed by the county treasurer;

(2) deposited in the United States mail:

(A) properly addressed to the principal office of the county

treasurer;

(B) with sufficient postage; and

(C) certified or postmarked by the United States Postal Service as mailed on or before the due date; or

(3) deposited with a nationally recognized express parcel carrier and is:

(A) properly addressed to the principal office of the county treasurer; and

(B) verified by the express parcel carrier as:

(i) paid in full for final delivery; and

(ii) received on or before the due date.

For purposes of this subsection, "postmarked" does not mean the date printed by a postage meter that affixes postage to the envelope or package containing a payment.

SECTION 50. IC 6-1.1-37-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. (a) This section applies only to property taxes first due and payable in 2004 with respect to a homestead (as defined in IC 6-1.1-20.9-1).**

(b) A county may petition the department of local government finance to waive all or part of the penalty imposed under section 10(a) of this chapter. The county fiscal body (as defined in IC 36-1-2-6), the county auditor, and the county treasurer must approve a petition under this subsection.

(c) The department of local government finance shall:

(1) prescribe the form of the petition under subsection (b);

(2) determine the information required on the form; and

(3) notify the county fiscal body, the county auditor, and the county treasurer of the department's determination on the petition not later than thirty (30) days after receipt of the petition.

SECTION 51. IC 6-1.1-39-6, AS AMENDED BY P.L.192-2002(ss), SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) An economic development district may be enlarged by the fiscal body by following the same procedure for the creation of an economic development district specified in this chapter. Property taxes that are attributable to the additional area and allocable to the economic development district are not eligible for the property**

tax replacement credit provided by IC 6-1.1-21-5. However, subject to subsection (c) **and except as provided in subsection (f)**, each taxpayer in an additional area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in May and November of that year. **Except as provided in subsection (f)**, one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district in a county that contains all or part of the additional area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to a special fund under section 5 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the economic development district and paid into a special fund under section 5(a) of this chapter.

(b) If the additional credit under subsection (a) is not reduced under subsection (c) or (d), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (a) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an additional area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (a) shall be combined on the tax statements sent to each taxpayer.

(c) The county fiscal body may, by ordinance, provide that the additional credit described in subsection (a):

- (1) does not apply in a specified additional area; or
- (2) is to be reduced by a uniform percentage for all taxpayers in a specified additional area.

(d) Whenever the county fiscal body determines that granting the full additional credit under subsection (a) would adversely affect the interests of the holders of bonds or other contractual obligations that are payable from allocated tax proceeds in that economic development district in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the county fiscal body must adopt an ordinance under subsection (c) to deny the additional credit or reduce the additional credit to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. An ordinance adopted under subsection (c) denies or reduces the additional credit for taxes (as defined in IC 6-1.1-21-2) first due and payable in any year following the year in which the ordinance is adopted.

(e) An ordinance adopted under subsection (c) remains in effect until the ordinance is rescinded by the body that originally adopted the ordinance. However, an ordinance may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that economic development district in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If an ordinance is rescinded and no other ordinance is adopted, the additional credit described in subsection (a) applies to taxes (as defined in IC 6-1.1-21-2) first due and payable in each year following the year in which the resolution is rescinded.

(f) This subsection applies to an additional area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an additional area is entitled to an additional credit under subsection (a) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be

applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 52. IC 8-22-3.5-10, AS AMENDED BY P.L.192-2002(ss), SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except in a county described in section 1(5) of this chapter **and except as provided in subsection (d)**, if the commission adopts the provisions of this section by resolution, each taxpayer in the airport development zone is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that, under IC 6-1.1-22-9, are due and payable in May and November of that year. **Except as provided in subsection (d)**, one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the airport development zone:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to the special funds under section 9 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated and paid into the special funds under section 9 of this chapter.

(b) The additional credit under subsection (a) shall be:

(1) computed on an aggregate basis of all taxpayers in a taxing district that contains all or part of an airport development zone; and

(2) combined on the tax statement sent to each taxpayer.

(c) Concurrently with the mailing or other delivery of the tax statement or any corrected tax statement to each taxpayer, as required by IC 6-1.1-22-8(a), each county treasurer shall for each tax statement also deliver to each taxpayer in an airport development zone who is entitled to the additional credit under subsection (a) a notice of additional credit. The actual dollar amount of the credit, the taxpayer's name and address, and the tax statement to which the credit applies shall be stated on the notice.

(d) This subsection applies to an airport development zone only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an airport development zone is entitled to an additional credit under subsection (a) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 53. IC 12-13-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. For taxes first due and payable in each year after ~~1990~~, **2003**, each county shall impose a medical assistance property tax levy equal to the product of:

(1) the medical assistance property tax levy imposed for taxes first due and payable in the preceding year, **as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year;** multiplied by

(2) the statewide average assessed value growth quotient, using all the county assessed value growth quotients determined under IC 6-1.1-18.5-2 for the year in which the tax levy under this section will be first due and payable.

If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the

following year shall be reduced by the amount of surplus money.

SECTION 54. IC 12-19-7-4, AS AMENDED BY P.L.90-2002, SECTION 344, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) For taxes first due and payable in 1995, each county must impose a county family and children property tax levy equal to the amount determined using the following formula:

STEP ONE: Determine the sum of the amounts that were paid by the county minus the amounts reimbursed by the state (including reimbursements made with federal money), as determined by the state board of accounts, in 1991, 1992, and 1993 for the following:

(A) Payments for administrative expenses of the county office of family and children in administering the provision of child services:

(B) Payments for the services described in section 1 of this chapter that were made on behalf of the children described in section 1 of this chapter and for which payment was made from the county welfare fund:

(C) Payment for the facilities, supplies, and equipment needed for the provision of child services as operated by the county office of family and children:

(D) Payment of all other expenses incurred in providing child services that were paid by the county office of family and children:

STEP TWO: Subtract from the amount determined in STEP ONE the sum of the miscellaneous taxes that were allocated to:

(A) the county welfare administration fund and used to pay expenses for administration, facilities, supplies, and equipment for the provision of child services in 1991, 1992, and 1993; and

(B) the county welfare fund, the county general fund, or the county welfare loan fund (whichever of the funds applies) and used to pay the costs of providing child services in 1991, 1992, and 1993:

STEP THREE: Divide the amount determined in STEP TWO by three (3):

STEP FOUR: Calculate the STEP ONE amount and the STEP

TWO amount for 1993 expenses only:

STEP FIVE: Adjust the amounts determined in STEP THREE and STEP FOUR by the amount determined by the department of local government finance under subsection (c):

STEP SIX: Determine whether the amount calculated in STEP THREE, as adjusted in STEP FIVE, or the amount calculated in STEP FOUR, as adjusted in STEP FIVE, is greater. Multiply the greater amount by the greater of:

(A) the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for property taxes first due and payable in 1995; or

(B) the statewide average assessed value growth quotient using the county assessed value growth quotients determined under IC 6-1.1-18.5-2 for property taxes first due and payable in 1995:

STEP SEVEN: Multiply the amount determined in STEP SIX by the county's assessed value growth quotient for property taxes first due and payable in 1995, as determined under IC 6-1.1-18.5-2:

~~(b)~~ (a) For taxes first due and payable in each year after 1995, 2003, each county shall impose a county family and children property tax levy equal to the product of:

(1) the county family and children property tax levy imposed for taxes first due and payable in the preceding year, **as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year;** multiplied by

(2) the greater of:

(A) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2; or

(B) one (1).

When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent adjustments in the county's levy

under this section. **If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.**

(c) For taxes first due and payable in 1995 and in 1996, the department of local government finance shall adjust the levy for each county to reflect the county's actual child services expenses incurred in providing child services in 1991, 1992, and 1993. In making this adjustment, the department of local government finance may consider all relevant information, including the county's use of bond and loan proceeds to pay these expenses.

(d) (b) The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy.

SECTION 55. IC 12-19-7.5-6, AS ADDED BY P.L.224-2003, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) For taxes first due and payable in 2004, each county must impose a county children's psychiatric residential services property tax levy equal to the amount determined using the following formula:

STEP ONE: Determine the sum of the amounts that were paid by the county minus the amounts reimbursed by the state (including reimbursements made with federal money), as determined by the state board of accounts in 2000, 2001, and 2002 for payments to facilities licensed under 470 IAC 3-13 for services that were made on behalf of the children and for which payment was made from the county family and children fund, or five percent (5%) of the average family and children budget, as determined by the department of local government finance in 2000, 2001, and 2002, whichever is greater.

STEP TWO: Subtract from the amount determined in STEP ONE the sum of the miscellaneous taxes that were allocated to the county family and children fund and used to pay the costs for providing services in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002.

STEP THREE: Divide the amount determined in STEP TWO by three (3).

STEP FOUR: Calculate the STEP ONE amount and the STEP

TWO amount for 2002 expenses only.

STEP FIVE: Adjust the amounts determined in STEP THREE and STEP FOUR by the amount determined by the department of local government finance under subsection (c).

STEP SIX: Determine whether the amount calculated in STEP THREE, as adjusted in STEP FIVE, or the amount calculated in STEP FOUR, as adjusted in STEP FIVE, is greater. Multiply the greater amount by the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for property taxes first due and payable in 2003.

STEP SEVEN: Multiply the amount determined in STEP SIX by the county's assessed value growth quotient for property taxes first due and payable in 2004, as determined under IC 6-1.1-18.5-2.

(b) For taxes first due and payable in each year after 2004, each county shall impose a county children's psychiatric residential treatment services property tax levy equal to the product of:

(1) the county children's psychiatric residential treatment services property tax levy imposed for taxes first due and payable in the preceding year, **as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year;** multiplied by

(2) the greater of:

(A) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2; or

(B) one (1).

When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent adjustments in the county's levy under this section. **If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.**

(c) For taxes first due and payable in 2004, the department of local

government finance shall adjust the levy for each county to reflect the county's actual expenses incurred in providing services to children in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002. In making this adjustment, the department of local government finance may consider all relevant information, including the county's use of bond and loan proceeds to pay these expenses.

(d) The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy.

SECTION 56. IC 12-29-2-2, AS AMENDED BY P.L.170-2002, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Subject to ~~subsection~~ **subsections (b), (c), and (d)**, a county shall fund the operation of community mental health centers in an amount not less than the amount that would be raised by an annual tax rate of one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of taxable property within the county, unless a lower tax rate will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

- (1) If the total population of the county is served by one (1) center.
- (2) If the total population of the county is served by more than one (1) center.
- (3) If the partial population of the county is served by one (1) center.
- (4) If the partial population of the county is served by more than one (1) center.

(b) This subsection applies only to a property tax that is imposed in a county containing a consolidated city. The tax rate permitted under subsection (a) for taxes first due and payable after ~~calendar year~~ 1995 is the tax rate permitted under subsection (a) as adjusted under this subsection. For each year in which **an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5** or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the **annual adjustment or** general reassessment

takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent **(0.01%)**) in the assessed value **(before the adjustment, if any, under IC 6-1.1-4-4.5)** of the taxable property from the year preceding the year the **annual adjustment or** general reassessment takes effect to the year that the **annual adjustment or** general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent **(0.01%)**) in the assessed value **(before the adjustment, if any, under IC 6-1.1-4-4.5)** of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of:

(A) the STEP ONE tax rate; divided by

(B) one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which **an annual adjustment under IC 6-1.1-4-4.5** or a general reassessment of property will take effect.

(c) With respect to a county to which subsection (b) does not apply, the maximum tax rate permitted under subsection (a) for taxes first due and payable in calendar year 2004 and calendar year 2005 is the maximum tax rate that would have been determined under subsection (d) for taxes first due and payable in 2003 if subsection (d) had applied to the county for taxes first due and payable in 2003.

(d) This subsection applies only to a county to which subsection (b) does not apply. The tax rate permitted under subsection (a) for

taxes first due and payable after calendar year 2005 is the tax rate permitted under subsection (c) as adjusted under this subsection. For each year in which an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5 or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined under STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed under STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of:

(A) the STEP ONE tax rate; divided by

(B) one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or

a general reassessment of property will take effect.

SECTION 57. IC 12-29-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The maximum appropriation determined under section 3 or 4 of this chapter represents the county's absolute proportional share of each center's total operating budget.

(b) If the proportional share is less than the ~~four cent (\$0.04)~~ **requirement in amount of property taxes raised under the tax rate required under** section 2 of this chapter, the county shall appropriate only the maximum appropriation amount.

(c) If the proportional share is more than the ~~four cent (\$0.04)~~ **requirement in amount of property taxes raised under the tax rate required under** section 2 of this chapter, the county:

- (1) ~~shall satisfy the four cent (\$0.04) equivalent appropriation appropriate that amount; and~~
- (2) ~~may appropriate an additional amount in excess of the four cent (\$0.04) equivalent appropriation up to an amount added to the four cent (\$0.04) equivalent appropriation that would equal a ten cent (\$0.10) equivalent appropriation. the amount of property taxes raised by a tax rate of three and one-third cents (\$0.03 1/3).~~

SECTION 58. IC 16-35-3-3, AS AMENDED BY P.L.90-2002, SECTION 401, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) ~~For taxes first due and payable in 1992, each county must impose a children with special health care needs property tax levy equal to the amount determined using the following formula:~~

~~STEP ONE: Determine the sum of the amounts that were paid by the county minus the amounts reimbursed by the state (including reimbursements made with federal money); as determined by the state board of accounts, in 1988, 1989, and 1990 for the following:~~

- ~~(A) Payments for administrative expenses of the county office of family and children in the administration of the children with special health care needs program.~~
- ~~(B) Payment for the facilities, supplies, and equipment needed for the children with special health care needs program as operated by the county office of family and children.~~

(C) Payment of all other expenses under the children with special health care needs program that were paid by the county office of family and children.

STEP TWO: Subtract from the amount determined in STEP ONE the sum of the miscellaneous taxes that were allocated to:

(A) the county welfare administration fund and used to pay expenses for administration, facilities, supplies, and equipment for the children with special health care needs program in 1988, 1989, and 1990; and

(B) the county welfare fund and used to pay all other costs of the children with special health care needs program in 1988, 1989, and 1990.

STEP THREE: Divide the amount determined in STEP TWO by three (3).

STEP FOUR: Calculate the STEP ONE amount and the STEP TWO amount for 1990 expenses only.

STEP FIVE: Adjust the amounts determined in STEP THREE and STEP FOUR by the amount determined by the state board of tax commissioners under subsection (c).

STEP SIX: Determine whether the amount calculated in STEP THREE, as adjusted in STEP FIVE, or the amount calculated in STEP FOUR, as adjusted in STEP FIVE, is greater. Multiply the greater amount by the greater of:

(A) the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for property taxes first due and payable in 1992; or

(B) the statewide average assessed value growth quotient using the county assessed value growth quotients determined under IC 6-1.1-18.5-2 for property taxes first due and payable in 1992.

STEP SEVEN: Multiply the amount determined in STEP SIX by the county's assessed value growth quotient for property taxes first due and payable in 1992, as determined under IC 6-1.1-18.5-2.

(b) (a) For taxes first due and payable in each year after 1992, 2003, each county shall impose a children with special health care needs property tax levy equal to the product of:

(1) the children with special health care needs property tax levy imposed for taxes first due and payable in the preceding year, as

that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year; multiplied by

(2) the greater of:

(A) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2; or

(B) one (1).

When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent adjustments in the county's levy under this section. **If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.**

(c) For taxes first due and payable in 1992 and in 1993, the state board of tax commissioners shall adjust the levy for each county to reflect the county's actual welfare expenses for administration, facilities, supplies, equipment, and all other costs for the children with special health care needs program in 1988, 1989, and 1990. In making this adjustment, the state board of tax commissioners may consider all relevant information. This includes the county's use of bond and loan proceeds to pay these expenses.

(d) (b) The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy.

SECTION 59. IC 20-5.5-7-3, AS AMENDED BY P.L.276-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Not later than the date established by the department for determining average daily membership under IC 21-3-1.6-1.1(d), and after May 31, the organizer shall submit to the department the following information on a form prescribed by the department:

(1) The number of students enrolled in the charter school.

- (2) The name and address of each student.
- (3) The name of the school corporation in which the student has legal settlement.
- (4) The name of the school corporation, if any, that the student attended during the immediately preceding school year.
- (5) The grade level in which the student will enroll in the charter school.

The department shall verify the accuracy of the information reported.

(b) This subsection applies after December 31 of the calendar year in which a charter school begins its initial operation. The department shall distribute to the organizer the amount determined under IC 21-3-1.7 for the charter school. The department shall make a distribution under this subsection at the same time and in the same manner as the department makes a distribution under IC 21-3-1.7.

(c) The department shall provide to the department of local government finance the following information:

- (1) For each county, the number of students who:
 - (A) have legal settlement in the county; and
 - (B) attend a charter school.
- (2) The school corporation in which each student described in subdivision (1) has legal settlement.
- (3) The charter school that a student described in subdivision (1) attends and the county in which the charter school is located.
- (4) The amount determined under ~~IC 6-1.1-19-1.5(g)~~ **IC 6-1.1-19-1.5(f)** STEP EIGHT for 2004 and IC 6-1.1-19-1.5(b) STEP SIX for 2005 for each school corporation described in subdivision (2).
- (5) The amount determined under STEP TWO of the following formula:

STEP ONE: Determine the product of:

- (A) the amount determined under IC 21-3-1.7-6.7(d) or IC 21-3-1.7-6.7(e) for a charter school described in subdivision (3); multiplied by
- (B) thirty-five hundredths (0.35).

STEP TWO: Determine the product of:

- (A) the STEP ONE amount; multiplied by
- (B) the current ADM of a charter school described in subdivision (3).

(6) The amount determined under STEP THREE of the following formula:

STEP ONE: Determine the number of students described in subdivision (1) who:

- (A) attend the same charter school; and
- (B) have legal settlement in the same school corporation located in the county.

STEP TWO: Determine the subdivision (5) STEP ONE amount for a charter school described in STEP ONE (A).

STEP THREE: Determine the product of:

- (A) the STEP ONE amount; multiplied by
- (B) the STEP TWO amount.

SECTION 60. IC 21-1-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The common school fund and the permanent endowment fund which is, at any time, in the custody of the treasurer of state, and subject to the management and control of the state board of finance, except as hereinafter provided, shall be invested ~~as follows:~~ **in:**

- (1) ~~in~~ bonds, notes, certificates and other valid obligations of the United States;
- (2) ~~in~~ bonds, notes, debentures and other securities issued by any federal instrumentality and fully guaranteed by the United States;
- (3) ~~in~~ bonds, notes, certificates and other valid obligations of any state of the United States or of any county, township, city, town or other political subdivision of the state of Indiana which are issued pursuant to law, the issuers of which, for five (5) years prior to the date of such investment, have promptly paid the principal and interest on their bonds and other legal obligations in lawful money of the United States; **or**

(4) bonds, notes, or other securities issued by the Indiana bond bank and described in IC 5-13-10.5-11(3).

When it shall occur in any county of this state not having elected to surrender custody of any part of the common and permanent endowment funds to the state, that there is an insufficient amount of said funds held in trust in such county and unloaned, when added to the amount of congressional fund then held in trust and unloaned, as shown by a report of the auditor and treasurer of the county, to make all loans for which the county auditor has applications, upon petition of the

board of commissioners of any such county, the state board of finance may allocate to the county making application therefor such amount as the said state board of finance may deem necessary.

SECTION 61. IC 21-2-11.5-3, AS AMENDED BY P.L.192-2002(ss), SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Subject to subsection (b), each school corporation may levy for the calendar year a property tax for the school transportation fund sufficient to pay all operating costs attributable to transportation that:

(1) are not paid from other revenues available to the fund as specified in section 4 of this chapter; and

(2) are listed in section 2(a)(1) through 2(a)(7) of this chapter.

(b) For each year after ~~2002~~, **2003**, the levy for the fund may not exceed the levy for the previous year, **as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17 and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year**, multiplied by the assessed value growth quotient determined under STEP FOUR of the following formula:

STEP ONE: For each of the six (6) calendar years immediately preceding the year in which a budget is adopted under IC 6-1.1-17-5 or IC 6-1.1-17-5.6 for part or all of the ensuing calendar year, divide the Indiana nonfarm personal income for the calendar year by the Indiana nonfarm personal income for the calendar year immediately preceding that calendar year, rounding to the nearest one-thousandth (0.001).

STEP TWO: Determine the sum of the STEP ONE results.

STEP THREE: Divide the STEP TWO result by six (6), rounding to the nearest one-thousandth (0.001).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE quotient.

(B) One and six-hundredths (1.06).

If the amount levied in a particular year exceeds the amount necessary to cover the costs payable from the fund, the levy in the following year shall be reduced by the amount of surplus money.

(c) Each school corporation may levy for the calendar year a tax for

the school bus replacement fund in accordance with the school bus acquisition plan adopted under section 3.1 of this chapter.

(d) The tax rate and levy for each fund shall be established as a part of the annual budget for the calendar year in accord with IC 6-1.1-17.

SECTION 62. IC 21-3-1.7-6.8, AS AMENDED BY P.L.276-2003, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.8. (a) This section does not apply to a charter school.

(b) This subsection does not apply after December 31, 2003. A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result determined under STEP THREE of the following formula:

STEP ONE: This STEP applies only if the amount determined in STEP FIVE of the formula in section 6.7(d) of this chapter minus the result determined in STEP ONE of the formula in section 6.7(d) of this chapter is greater than zero (0). Determine the result under clause (E) of the following formula:

(A) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.

(B) Divide the clause (A) result by ten thousand (10,000).

(C) Determine the greater of the following:

(i) The clause (B) result.

(ii) Thirty-nine dollars (\$39) in 2002 and thirty-nine dollars and seventy-five cents (\$39.75) in 2003.

(D) Determine the result determined under item (ii) of the following formula:

(i) Subtract the result determined in STEP ONE of the formula in section 6.7(d) of this chapter from the amount determined in STEP FIVE of the formula in section 6.7(d) of this chapter.

(ii) Divide the item (i) result by the school corporation's current ADM.

(E) Divide the clause (D) result by the clause (C) result.

(F) Divide the clause (E) result by one hundred (100).

STEP TWO: This STEP applies only if the amount determined in STEP FIVE of the formula in section 6.7(d) of this chapter is equal to STEP ONE of the formula in section 6.7(d) of this chapter and the result of clause (A) is greater than zero (0).

Determine the result under clause (G) of the following formula:

(A) Add the following:

(i) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(ii) The portion of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

(B) Divide the clause (A) result by the school corporation's current ADM.

(C) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.

(D) Divide the clause (C) result by ten thousand (10,000).

(E) Determine the greater of the following:

(i) The clause (D) result.

(ii) Thirty-nine dollars (\$39) in 2002 and thirty-nine dollars and seventy-five cents (\$39.75) in 2003.

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP THREE: Determine the sum of:

(A) ninety-one and eight-tenths cents (\$0.918) in 2002; and

(B) ninety-five and eight-tenths cents (\$0.958) in 2003; and

if applicable, the STEP ONE or STEP TWO result.

(c) This subsection applies to calendar years beginning after December 31, 2004. A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount determined for the school corporation in STEP ONE of the formula in section 6.7(e) of this chapter.

STEP TWO: This STEP applies only if the amount determined in STEP EIGHT of the formula in section 6.7(e) of this chapter minus the STEP ONE result is greater than zero (0). Determine the result under clause (E) of the following formula:

(A) Divide the school corporation's assessed valuation by the school corporation's current ADM.

(B) Divide the clause (A) result by ten thousand (10,000).

(C) Determine the greater of the following:

(i) The clause (B) result.

(ii) Forty-three dollars and sixty-five cents (\$43.65).

(D) Determine the result determined under item (ii) of the following formula:

(i) Subtract the STEP ONE result from the amount determined in STEP EIGHT of the formula in section 6.7(e) of this chapter.

(ii) Divide the item (i) result by the school corporation's current ADM.

(E) Divide the clause (D) result by the clause (C) result.

(F) Divide the clause (E) result by one hundred (100).

STEP THREE: This STEP applies only if the amount determined in STEP EIGHT of the formula in section 6.7(e) of this chapter is equal to the STEP ONE result and the result of clause (A) is greater than zero (0). Determine the result under clause (G) of the following formula:

(A) Add the following:

(i) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(ii) The part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

(B) Divide the clause (A) result by the school corporation's current ADM.

(C) Divide the school corporation's assessed valuation by the school corporation's current ADM.

(D) Divide the clause (C) result by ten thousand (10,000).

(E) Determine the greater of the following:

(i) The clause (D) result.

(ii) Forty-three dollars and sixty-five cents (\$43.65).

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP FOUR: Determine the sum of sixty-three and seven-tenths

cents (\$0.637) and, if applicable, the STEP TWO or STEP THREE result.

~~(c)~~ **(d)** For the calendar year beginning January 1, 2004, and ending December 31, 2004, a school corporation's general fund ad valorem property tax levy is determined under ~~IC 6-1.1-19-1.5(g)~~: **IC 6-1.1-19-1.5(f)**.

SECTION 63. IC 36-2-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A county assessor shall be elected under IC 3-10-2-13 by the voters of the county.

(b) To be eligible to serve as an assessor, a person must meet the qualifications prescribed by IC 3-8-1-23 **and IC 6-1.1-35-1.1**.

(c) A county assessor must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the county **or fails to comply with IC 6-1.1-35-1.1**.

(d) The term of office of a county assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 64. IC 36-6-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A township trustee shall be elected under IC 3-10-2-13 by the voters of each township. The trustee is the township executive.

(b) The township trustee must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The trustee forfeits office if the trustee:

(1) ceases to be a resident of the township; **or**

(2) serves as township assessor under IC 36-6-5-2 and fails to comply with IC 6-1.1-35-1.1.

(c) The term of office of a township trustee is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 65. IC 36-6-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) A township assessor shall be elected under IC 3-10-2-13 by the voters of each township having:

(1) a population of more than eight thousand (8,000); or

(2) an elected township assessor or the authority to elect a township assessor before January 1, 1979.

(b) A township assessor shall be elected under IC 3-10-2-14 in each township having a population of more than five thousand (5,000) but not more than eight thousand (8,000), if the legislative body of the township:

(1) by resolution, declares that the office of township assessor is necessary; and

(2) the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2.

(c) The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the township **or fails to comply with the requirements of IC 6-1.1-35-1.1.**

(d) The term of office of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.

SECTION 66. IC 36-7-14-39.5, AS AMENDED BY P.L.192-2002(ss), SECTION 178, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 39.5. (a) As used in this section, "allocation area" has the meaning set forth in section 39 of this chapter.

(b) As used in this section, "taxing district" has the meaning set forth in IC 6-1.1-1-20.

(c) Subject to subsection (e) **and except as provided in subsection (h)**, each taxpayer in an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in May and November of that year. **Except as provided in subsection (h)**, one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3),

IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to an allocation fund under section 39 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the redevelopment district and paid into an allocation fund under section 39(b)(2) of this chapter.

(d) If the additional credit under subsection (c) is not reduced under subsection (e) or (f), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an allocation area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be combined on the tax statements sent to each taxpayer.

(e) Upon the recommendation of the redevelopment commission, the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) may, by resolution, provide that the additional credit described in subsection (c):

(1) does not apply in a specified allocation area; or

(2) is to be reduced by a uniform percentage for all taxpayers in a specified allocation area.

(f) Whenever the municipal legislative body or county executive determines that granting the full additional credit under subsection (c) would adversely affect the interests of the holders of bonds or other

contractual obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the municipal legislative body or county executive must adopt a resolution under subsection (e) to deny the additional credit or reduce it to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. A resolution adopted under subsection (e) denies or reduces the additional credit for property taxes first due and payable in the allocation area in any year following the year in which the resolution is adopted.

(g) A resolution adopted under subsection (e) remains in effect until it is rescinded by the body that originally adopted it. However, a resolution may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If a resolution is rescinded and no other resolution is adopted, the additional credit described in subsection (c) applies to property taxes first due and payable in the allocation area in each year following the year in which the resolution is rescinded.

(h) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (c) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 67. IC 36-7-15.1-26.5, AS AMENDED BY P.L.192-2002(ss), SECTION 181, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.5. (a) As used in this section, "adverse determination" means a determination by the fiscal officer of the consolidated city that the granting of credits

described in subsection (g) or (h) would impair any contract with or otherwise adversely affect the owners of outstanding bonds payable from the allocation area special fund.

(b) As used in this section, "allocation area" has the meaning set forth in section 26 of this chapter.

(c) As used in this section, "special fund" refers to the special fund into which property taxes are paid under section 26 of this chapter.

(d) As used in this section, "taxing district" has the meaning set forth in IC 6-1.1-1-20.

(e) Except as provided in subsections (g), (h), ~~and (i), and (j)~~, each taxpayer in an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that, under IC 6-1.1-22-9, are due and payable in May and November of that year. **Except as provided in subsection (j)**, one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's † eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to an allocation fund under section 26 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the redevelopment district and paid into the special fund.

(f) The credit for property tax replacement under IC 6-1.1-21-5 and the additional credits under subsections (e), (g), (h), and (i), unless the

credits under subsections (g) and (h) are partial credits, shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an allocation area. Except as provided in subsections (h) and (i), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credits under subsections (e), (g), (h), and (i) shall be combined on the tax statements sent to each taxpayer.

(g) This subsection applies to an allocation area if allocated taxes from that area were pledged to bonds, leases, or other obligations of the commission before May 8, 1989. A credit calculated using the method provided in subsection (e) may be granted under this subsection. The credit provided under this subsection is first applicable for the allocation area for property taxes first due and payable in 1992. The following apply to the determination of the credit provided under this subsection:

(1) Before June 15 of each year, the fiscal officer of the consolidated city shall determine and certify the following:

(A) All amounts due in the following year to the owners of outstanding bonds payable from the allocation area special fund.

(B) All amounts that are:

(i) required under contracts with bond holders; and

(ii) payable from the allocation area special fund to fund accounts and reserves.

(C) An estimate of the amount of personal property taxes available to be paid into the allocation area special fund under section 26.9(c) of this chapter.

(D) An estimate of the aggregate amount of credits to be granted if full credits are granted.

(2) Before June 15 of each year, the fiscal officer of the consolidated city shall determine if the granting of the full amount of credits in the following year would impair any contract with or otherwise adversely affect the owners of outstanding bonds payable from the allocation area special fund.

(3) If the fiscal officer of the consolidated city determines under subdivision (2) that there would not be an impairment or adverse effect:

(A) the fiscal officer of the consolidated city shall certify the determination; and

(B) the full credits shall be applied in the following year, subject to the determinations and certifications made under section 26.7(b) of this chapter.

(4) If the fiscal officer of the consolidated city makes an adverse determination under subdivision (2), the fiscal officer of the consolidated city shall determine whether there is an amount of partial credits that, if granted in the following year, would not result in the impairment or adverse effect. If the fiscal officer determines that there is an amount of partial credits that would not result in the impairment or adverse effect, the fiscal officer shall do the following:

(A) Determine the amount of the partial credits.

(B) Certify that determination.

(5) If the fiscal officer of the consolidated city certifies under subdivision (4) that partial credits may be paid, the partial credits shall be applied pro rata among all affected taxpayers in the following year.

(6) An affected taxpayer may appeal any of the following to the circuit or superior court of the county in which the allocation area is located:

(A) A determination by the fiscal officer of the consolidated city that:

(i) credits may not be paid in the following year; or

(ii) only partial credits may be paid in the following year.

(B) A failure by the fiscal officer of the consolidated city to make a determination by June 15 of whether full or partial credits are payable under this subsection.

(7) An appeal of a determination must be filed not later than thirty (30) days after the publication of the determination.

(8) An appeal of a failure by the fiscal officer of the consolidated city to make a determination of whether the credits are payable under this subsection must be filed by July 15 of the year in which the determination should have been made.

(9) All appeals under subdivision (6) shall be decided by the court within sixty (60) days.

(h) This subsection applies to an allocation area if allocated taxes from that area were pledged to bonds, leases, or other obligations of the commission before May 8, 1989. A credit calculated using the method

in subsection (e) and in subdivision (2) may be granted under this subsection. The following apply to the credit granted under this subsection:

(1) The credit is applicable to property taxes first due and payable in 1991.

(2) For purposes of this subsection, the amount of a credit for 1990 taxes payable in 1991 with respect to an affected taxpayer is equal to:

(A) the amount of the quotient determined under STEP TWO of subsection (e); multiplied by

(B) the total amount of the property taxes payable by the taxpayer that were allocated in 1991 to the allocation area special fund under section 26 of this chapter.

(3) Before June 15, 1991, the fiscal officer of the consolidated city shall determine and certify an estimate of the aggregate amount of credits for 1990 taxes payable in 1991 if the full credits are granted.

(4) The fiscal officer of the consolidated city shall determine whether the granting of the full amounts of the credits for 1990 taxes payable in 1991 against 1991 taxes payable in 1992 and the granting of credits under subsection (g) would impair any contract with or otherwise adversely affect the owners of outstanding bonds payable from the allocation area special fund for an allocation area described in subsection (g).

(5) If the fiscal officer of the consolidated city determines that there would not be an impairment or adverse effect under subdivision (4):

(A) the fiscal officer shall certify that determination; and

(B) the full credits shall be applied against 1991 taxes payable in 1992 or the amount of the credits shall be paid to the taxpayers as provided in subdivision (12), subject to the determinations and certifications made under section 26.7(b) of this chapter.

(6) If the fiscal officer of the consolidated city makes an adverse determination under subdivision (4), the fiscal officer shall determine whether there is an amount of partial credits for 1990 taxes payable in 1991 that, if granted against 1991 taxes payable in 1992 in addition to granting of the credits under subsection (g),

would not result in the impairment or adverse effect.

(7) If the fiscal officer of the consolidated city determines under subdivision (6) that there is an amount of partial credits that would not result in the impairment or adverse effect, the fiscal officer shall determine the amount of partial credits and certify that determination.

(8) If the fiscal officer of the consolidated city certifies under subdivision (7) that partial credits may be paid, the partial credits shall be applied pro rata among all affected taxpayers against 1991 taxes payable in 1992.

(9) An affected taxpayer may appeal any of the following to the circuit or superior court of the county in which the allocation area is located:

(A) A determination by the fiscal officer of the consolidated city that:

(i) credits may not be paid for 1990 taxes payable in 1991; or

(ii) only partial credits may be paid for 1990 taxes payable in 1991.

(B) A failure by the fiscal officer of the consolidated city to make a determination by June 15, 1991, of whether credits are payable under this subsection.

(10) An appeal of a determination must be filed not later than thirty (30) days after the publication of the determination. Any such appeal shall be decided by the court within sixty (60) days.

(11) An appeal of a failure by the fiscal officer of the consolidated city to make a determination of whether credits are payable under this subsection must be filed by July 15, 1991. Any such appeal shall be decided by the court within sixty (60) days.

(12) If 1991 taxes payable in 1992 with respect to a parcel are billed to the same taxpayer to which 1990 taxes payable in 1991 were billed, the county treasurer shall apply to the tax bill for 1991 taxes payable in 1992 both the credit provided under subsection (g) and the credit provided under this subsection, along with any credit determined to be applicable to the tax bill under subsection (i). In the alternative, at the election of the county auditor, the county may pay to the taxpayer the amount of the credit by May 10, 1992, and the amount shall be charged to

the taxing units in which the allocation area is located in the proportion of the taxing units' respective tax rates for 1990 taxes payable in 1991.

(13) If 1991 taxes payable in 1992 with respect to a parcel are billed to a taxpayer other than the taxpayer to which 1990 taxes payable in 1991 were billed, the county treasurer shall do the following:

(A) Apply only the credits under subsections (g) and (i) to the tax bill for 1991 taxes payable in 1992.

(B) Give notice by June 30, 1991, by publication two (2) times in three (3) newspapers in the county with the largest circulation of the availability of a refund of the credit under this subsection.

A taxpayer entitled to a credit must file an application for refund of the credit with the county auditor not later than November 30, 1991.

(14) A taxpayer who files an application by November 30, 1991, is entitled to payment from the county treasurer in an amount that is in the same proportion to the credit provided under this subsection with respect to a parcel as the amount of 1990 taxes payable in 1991 paid by the taxpayer with respect to the parcel bears to the 1990 taxes payable in 1991 with respect to the parcel. This amount shall be paid to the taxpayer by May 10, 1992, and shall be charged to the taxing units in which the allocation area is located in the proportion of the taxing units' respective tax rates for 1990 taxes payable in 1991.

(i) This subsection applies to an allocation area if allocated taxes from that area were pledged to bonds, leases, or other obligations of the commission before May 8, 1989. The following apply to the credit granted under this subsection:

(1) A prior year credit is applicable to property taxes first due and payable in each year from 1987 through 1990 (the "prior years").

(2) The credit for each prior year is equal to:

(A) the amount of the quotient determined under STEP TWO of subsection (e) for the prior year; multiplied by

(B) the total amount of the property taxes paid by the taxpayer that were allocated in the prior year to the allocation area special fund under section 26 of this chapter.

(3) Before January 31, 1992, the county auditor shall determine the amount of credits under subdivision (2) with respect to each parcel in the allocation area for all prior years with respect to which:

(A) taxes were billed to the same taxpayer for taxes payable in each year from 1987 through 1991; or

(B) an application was filed by November 30, 1991, under subdivision (8) for refund of the credits for prior years.

A report of the determination by parcel shall be sent by the county auditor to the department of local government finance and the budget agency within five (5) days of such determination.

(4) Before January 31, 1992, the county auditor shall determine the quotient of the amounts determined under subdivision (3) with respect to each parcel divided by six (6).

(5) Before January 31, 1992, the county auditor shall determine the quotient of the aggregate amounts determined under subdivision (3) with respect to all parcels divided by twelve (12).

(6) Except as provided in subdivisions (7) and (9), in each year in which credits from prior years remain unpaid, credits for the prior years in the amounts determined under subdivision (4) shall be applied as provided in this subsection.

(7) If taxes payable in the current year with respect to a parcel are billed to the same taxpayer to which taxes payable in all of the prior years were billed and if the amount determined under subdivision (3) with respect to the parcel is at least five hundred dollars (\$500), the county treasurer shall apply the credits provided for the current year under subsections (g) and (h) and the credit in the amount determined under subdivision (4) to the tax bill for taxes payable in the current year. However, if the amount determined under subdivision (3) with respect to the parcel is less than five hundred dollars (\$500) (referred to in this subdivision as "small claims"), the county may, at the election of the county auditor, either apply a credit in the amount determined under subdivision (3) or (4) to the tax bill for taxes payable in the current year or pay either amount to the taxpayer. If title to a parcel transfers in a year in which a credit under this subsection is applied to the tax bill, the transferor may file an application with the county auditor within thirty (30) days of the date of the

transfer of title to the parcel for payments to the transferor at the same times and in the same amounts that would have been allowed as credits to the transferor under this subsection if there had not been a transfer. If a determination is made by the county auditor to refund or credit small claims in the amounts determined under subdivision (3) in 1992, the county auditor may make appropriate adjustments to the credits applied with respect to other parcels so that the total refunds and credits in any year will not exceed the payments made from the state property tax replacement fund to the prior year credit fund referred to in subdivision (11) in that year.

(8) If taxes payable in the current year with respect to a parcel are billed to a taxpayer that is not a taxpayer to which taxes payable in all of the prior years were billed, the county treasurer shall do the following:

(A) Apply only the credits under subsections (g) and (h) to the tax bill for taxes payable in the current year.

(B) Give notice by June 30, 1991, by publication two (2) times in three (3) newspapers in the county with the largest circulation of the availability of a refund of the credit.

A taxpayer entitled to the credit must file an application for refund of the credit with the county auditor not later than November 30, 1991. A refund shall be paid to an eligible applicant by May 10, 1992.

(9) A taxpayer who filed an application by November 30, 1991, is entitled to payment from the county treasurer under subdivision (8) in an amount that is in the same proportion to the credit determined under subdivision (3) with respect to a parcel as the amount of taxes payable in the prior years paid by the taxpayer with respect to the parcel bears to the taxes payable in the prior years with respect to the parcel.

(10) In each year on May 1 and November 1, the state shall pay to the county treasurer from the state property tax replacement fund the amount determined under subdivision (5).

(11) All payments received from the state under subdivision (10) shall be deposited into a special fund to be known as the prior year credit fund. The prior year credit fund shall be used to make:

(A) payments under subdivisions (7) and (9); and

(B) deposits into the special fund for the application of prior year credits.

(12) All amounts paid into the special fund for the allocation area under subdivision (11) are subject to any pledge of allocated property tax proceeds made by the redevelopment district under section 26(d) of this chapter, including but not limited to any pledge made to owners of outstanding bonds of the redevelopment district of allocated taxes from that area.

(13) By January 15, 1993, and by January 15 of each year thereafter, the county auditor shall send to the department of local government finance and the budget agency a report of the receipts, earnings, and disbursements of the prior year credit fund for the prior calendar year. If in the final year that credits under subsection (i) are allowed any balance remains in the prior year credit fund after the payment of all credits payable under this subsection, such balance shall be repaid to the treasurer of state for deposit in the property tax replacement fund.

(14) In each year, the county shall limit the total of all refunds and credits provided for in this subsection to the total amount paid in that year from the property tax replacement fund into the prior year credit fund and any balance remaining from the preceding year in the prior year credit fund.

(j) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (e) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 68. IC 36-7-15.1-35, AS AMENDED BY P.L.192-2002(ss), SECTION 182, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. (a) Notwithstanding section 26(a) of this chapter, with respect to the

allocation and distribution of property taxes for the accomplishment of a program adopted under section 32 of this chapter, "base assessed value" means the net assessed value of all of the land as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 26(g) of this chapter. However, "base assessed value" does not include the value of real property improvements to the land.

(b) The special fund established under section 26(b) of this chapter for the allocation area for a program adopted under section 32 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

- (1) The construction, rehabilitation, or repair of residential units within the allocation area.
- (2) The construction, reconstruction, or repair of infrastructure (such as streets, sidewalks, and sewers) within or serving the allocation area.
- (3) The acquisition of real property and interests in real property within the allocation area.
- (4) The demolition of real property within the allocation area.
- (5) To provide financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.
- (6) To provide financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).
- (7) To provide each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, this credit may be provided by the commission only if the city-county legislative body establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 32 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts

described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4(a)(1) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) **Except as provided in subsection (g),** the commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c), by applying one-half (1/2) of the credit to each installment of taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable ~~on~~ in May \pm and November \pm of a year. **Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2).** The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 17.1 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 26(b) of this chapter, the special fund

established under section 26(b) of this chapter for the allocation area for a program adopted under section 32 of this chapter may only be used to do one (1) or more of the following:

- (1) Accomplish one (1) or more of the actions set forth in section 26(b)(2)(A) through 26(b)(2)(H) of this chapter.
- (2) Reimburse the consolidated city for expenditures made by the city in order to accomplish the housing program in that allocation area.

The special fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 26(b) of this chapter, the commission shall, relative to the special fund established under section 26(b) of this chapter for an allocation area for a program adopted under section 32 of this chapter, do the following before July 15 of each year:

- (1) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary:
 - (A) to make, when due, principal and interest payments on bonds described in section 26(b)(2) of this chapter;
 - (B) to pay the amount necessary for other purposes described in section 26(b)(2) of this chapter; and
 - (C) to reimburse the consolidated city for anticipated expenditures described in subsection (e)(2).
- (2) Notify the county auditor of the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 26(b)(1) of this chapter.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as

defined in IC 6-1.1-21-2).

SECTION 69. IC 36-7-15.1-56, AS AMENDED BY P.L.192-2002(ss), SECTION 184, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 56. (a) As used in this section, "allocation area" has the meaning set forth in section 53 of this chapter.

(b) As used in this section, "taxing district" has the meaning set forth in IC 6-1.1-1-20.

(c) Subject to subsection (e) **and except as provided in subsection (h)**, each taxpayer in an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in May and November of that year. **Except as provided in subsection (h)**, one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to an allocation fund under section 53 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the development district and paid into an allocation fund under section 53(b)(2) of this chapter.

(d) If the additional credit under subsection (c) is not reduced under

subsection (e) or (f), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an allocation area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be combined on the tax statements sent to each taxpayer.

(e) Upon the recommendation of the commission, the excluded city legislative body may, by resolution, provide that the additional credit described in subsection (c):

- (1) does not apply in a specified allocation area; or
- (2) is to be reduced by a uniform percentage for all taxpayers in a specified allocation area.

(f) Whenever the excluded city legislative body determines that granting the full additional credit under subsection (c) would adversely affect the interests of the holders of bonds or other contractual obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the excluded city legislative body must adopt a resolution under subsection (e) to deny the additional credit or reduce it to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. A resolution adopted under subsection (e) denies or reduces the additional credit for property taxes first due and payable in the allocation area in any year following the year in which the resolution is adopted.

(g) A resolution adopted under subsection (e) remains in effect until it is rescinded by the body that originally adopted it. However, a resolution may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If a resolution is rescinded and no other resolution is adopted, the additional credit described in subsection (c) applies to property taxes first due and payable in the allocation area in each year following the year in which the resolution is rescinded.

(h) This subsection applies to an allocation area only to the

extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (c) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 70. IC 36-7-30-27, AS AMENDED BY P.L.192-2002(ss), SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) As used in this section, "allocation area" has the meaning set forth in section 25 of this chapter.

(b) As used in this section, "taxing district" has the meaning set forth in IC 6-1.1-1-20.

(c) Subject to subsection (e) **and except as provided in subsection (h)**, each taxpayer in an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable in May and November of that year. **Except as provided in subsection (h)**, one-half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2). This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

- (A) the STEP TWO quotient; times
- (B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to an allocation fund under section 25 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated to the military base reuse district and paid into an allocation fund under section 25(b)(2) of this chapter.

(d) If the additional credit under subsection (c) is not reduced under subsection (e) or (f), the credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be computed on an aggregate basis for all taxpayers in a taxing district that contains all or part of an allocation area. The credit for property tax replacement under IC 6-1.1-21-5 and the additional credit under subsection (c) shall be combined on the tax statements sent to each taxpayer.

(e) Upon the recommendation of the reuse authority, the municipal legislative body (in the case of a reuse authority established by a municipality) or the county executive (in the case of a reuse authority established by a county) may by resolution provide that the additional credit described in subsection (c):

- (1) does not apply in a specified allocation area; or
- (2) is to be reduced by a uniform percentage for all taxpayers in a specified allocation area.

(f) If the municipal legislative body or county executive determines that granting the full additional credit under subsection (c) would adversely affect the interests of the holders of bonds or other contractual obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that those bonds or other contractual obligations would not be paid when due, the municipal legislative body or county executive must adopt a resolution under subsection (e) to deny the additional credit or reduce the credit to a level that creates a reasonable expectation that the bonds or other obligations will be paid when due. A resolution adopted under subsection (e) denies or reduces the additional credit for property taxes first due and payable in the allocation area in any year following the year in which the resolution is adopted.

(g) A resolution adopted under subsection (e) remains in effect until rescinded by the body that originally adopted the resolution. However, a resolution may not be rescinded if the rescission would adversely affect the interests of the holders of bonds or other obligations that are payable from allocated tax proceeds in that allocation area in a way that would create a reasonable expectation that the principal of or interest on the bonds or other obligations would not be paid when due. If a resolution is rescinded and no other resolution is adopted, the additional credit described in subsection (c) applies to property taxes first due and payable in the allocation area in each year following the year in which the resolution is rescinded.

(h) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (c) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 71. [EFFECTIVE UPON PASSAGE] (a) For purposes of this SECTION, "benefit" means:

- (1) a credit under IC 6-1.1-20.9; or**
- (2) a deduction under any of the following:**
 - IC 6-1.1-12-1**
 - IC 6-1.1-12-9, as amended by this act**
 - IC 6-1.1-12-11**
 - IC 6-1.1-12-13**
 - IC 6-1.1-12-14**
 - IC 6-1.1-12-16**
 - IC 6-1.1-12-17.4.**

(b) This SECTION applies to an individual who, with respect to a real property parcel:

- (1) did not receive a benefit for property taxes first due and payable in 2003;**

- (2) met the eligibility criteria for the benefit under a section referred to in subsection (a) for property taxes first due and payable in 2004; and
 - (3) did not file a timely application as required by law for the benefit for property taxes first due and payable in 2004.
- (c) Except as provided in subsection (d), an individual may:
 - (1) claim a benefit referred to in subsection (a)(1) by meeting the filing requirements of IC 6-1.1-20.9; and
 - (2) claim a benefit referred to in subsection (a)(2) by meeting the filing requirements of IC 6-1.1-12.
- (d) The filing requirements for a benefit under this SECTION must be met on or before December 15, 2003.
- (e) The department of local government finance shall:
 - (1) prescribe forms; or
 - (2) issue instructions for the use of existing forms;for filing a claim under subsection (c).
- (f) The county auditor shall determine the individual's eligibility for a benefit under this SECTION. If the county auditor determines that an individual is eligible for a benefit under this SECTION for a parcel, the county auditor shall:
 - (1) apply the benefit with respect to taxes first due and payable in 2004 for the parcel; and
 - (2) before January 1, 2004:
 - (A) send to the department of local government finance a revised certification under IC 6-1.1-17-1(a) for the county that reflects:
 - (i) the benefits applied under this SECTION; and
 - (ii) deductions under IC 6-1.1-12-37 applied as described in subsection (j); and
 - (B) certify to the department of local government finance the amount of homestead credits allowed in the county under this SECTION for property taxes first due and payable in 2004.
- (g) The department of local government finance shall use the revised certifications received under subsection (f)(2)(A) in the department's determination of tax rates under IC 6-1.1-17-16 for taxes first due and payable in 2004. Notwithstanding IC 6-1.1-17-16(d), the department of local government finance may increase a political subdivision's tax rate to an amount that exceeds

the amount originally fixed by the political subdivision based on the revised certification received under subsection (f)(2)(A).

(h) Before March 15, 2004, the auditor of state shall certify the amount of homestead credits referred to in subsection (f)(2)(B) to the department of state revenue. For property taxes first due and payable in 2004, the department of state revenue shall allocate under IC 6-1.1-21-4 from the property tax replacement fund an additional amount equal to the total amount of homestead credits allowed under this SECTION for property taxes first due and payable in 2004. The department of state revenue shall distribute the amount allocated under this subsection in the same manner that other property tax replacement fund distributions are made in 2004.

(i) A statement filed under this SECTION to obtain a benefit for property taxes first due and payable in 2004 applies for that year and any succeeding year for which the benefit is allowed.

(j) Each year a person who is entitled under this SECTION to receive the homestead credit under IC 6-1.1-20.9 for property taxes first due and payable in 2004 is entitled for that year to the deduction under IC 6-1.1-12-37 from the assessed value of the real property that qualifies for the homestead credit.

SECTION 72. [EFFECTIVE UPON PASSAGE] Any action taken by the department of local government finance before January 1, 2004, to:

- (1) allow a taxpayer to file a petition under IC 6-1.1-15-1(b)(1) more than forty-five (45) days after notice of a change in the assessment is given to the taxpayer;
- (2) allow the payment of property taxes in installments other than the installments prescribed in IC 6-1.1-22-9(a); or
- (3) waive all or part of a penalty under IC 6-1.1-37-10 of this chapter;

is legalized and validated.

SECTION 73. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of local government finance.

(b) The department shall study the feasibility of creating uniform and common computer software programs for property tax assessment purposes, including computer software programs that allow the sharing and transfer of assessment data in a uniform

format by the state and all counties.

(c) The department shall report the results of the study required by subsection (b) to the commission on state tax and financing policy before September 1, 2004.

(d) Upon approval of the governor, the budget agency may authorize the payment of expenses incurred by the department in conducting the study required by subsection (b) from amounts allotted from the departmental and institutional emergency contingency fund.

(e) This SECTION expires January 1, 2005.

SECTION 74. [EFFECTIVE UPON PASSAGE] IC 6-1.1-15-11, as amended by this act, applies only to refunds that result from assessment reductions for which notice is given to the taxpayer after December 31, 2003.

SECTION 75. [EFFECTIVE JULY 1, 2004] IC 6-1.1-17-20, as amended by this act, applies only to property taxes first due and payable after December 31, 2004.

SECTION 76. [EFFECTIVE UPON PASSAGE] IC 6-1.1-18.5-1, as amended by this act, applies to property taxes first due and payable after December 31, 2003.

SECTION 77. [EFFECTIVE UPON PASSAGE] IC 6-1.1-18.5-13 and IC 6-1.1-21-2, both as amended by this act, apply only to property taxes first due and payable after December 31, 2003.

SECTION 78. [EFFECTIVE UPON PASSAGE] IC 6-1.1-18.5-17 and IC 6-1.1-19-1.7, both as amended by this act, apply only to property taxes first due and payable after December 31, 2003.

SECTION 79. [EFFECTIVE UPON PASSAGE] IC 6-1.1-18.5-16, IC 6-1.1-19-1.5, IC 6-1.1-19-4.7, IC 20-5.5-7-3, and IC 21-3-1.7-6.8, all as added by this act, apply to property taxes first due and payable after December 31, 2003.

SECTION 80. [EFFECTIVE JULY 1, 2004] An elected county assessor, township assessor, or township trustee-assessor is required to comply with IC 6-1.1-35-1.1, as amended by this act, only if the assessor or trustee-assessor is elected to a new term of office that begins after June 30, 2004.

SECTION 81. [EFFECTIVE MAY 10, 2003 (RETROACTIVE)] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) Except as provided in subsection (c), a review of an

assessment of real property for the 2003 assessment date initiated by a taxpayer after May 10, 2003, and not later than forty-five (45) days after the taxpayer receives a tax statement for the property taxes that are based on the assessment of the real property for the 2002 assessment date, is valid if:

(1) the review:

(A) was initiated before the date of passage of this act; and

(B) complied with IC 6-1.1-15-1, as in effect before the amendments made by this act; or

(2) the review;

(A) is initiated after the date of passage of this act; and

(B) complies with IC 6-1.1-15-1, as amended by this act;

other than the requirement for initiating the review not later than May 10, 2003.

(c) Subsection (b) does not apply if a notice of a change of assessment for the real property for the 2003 assessment date is given to the taxpayer. In this case, the taxpayer may initiate a review of the 2003 assessment of the real property by complying with IC 6-1.1-15-1, as in effect on the date the notice is given.

(d) Except as provided in subsection (e), a review of an assessment of real property for the 2004 assessment date initiated by a taxpayer after May 10, 2004, and not later than forty-five (45) days after the taxpayer receives a tax statement for the property taxes that are based on the assessment of the real property for the 2003 assessment date is valid if the review complies with IC 6-1.1-15-1, as amended by this act, other than the requirement for initiating the review not later than May 10, 2004.

(e) Subsection (d) does not apply if a notice of a change of assessment for the real property for the 2004 assessment date is given to the taxpayer. In this case, the taxpayer may initiate a review of the 2004 assessment of the real property by complying with IC 6-1.1-15-1, as amended by this act.

SECTION 82. [EFFECTIVE UPON PASSAGE] (a) For property taxes first due and payable in 2004 with respect to a homestead (as defined in IC 6-1.1-20.9-1):

(1) a county treasurer who mails a property tax statement under IC 6-1.1-22-8(a)(1) shall include in or mail with the statement; and

(2) a county treasurer who transmits a statement to a person's

mortgagee under IC 6-1.1-22-8(a)(2) shall, at the time the county treasurer mails statements under IC 6-1.1-22-8(a)(1), mail or cause to be mailed to the last known address of the person;

a statement in the form determined by the department of local government finance under subsection (b). A statement mailed to a person described in subdivision (2) need not be transmitted to the person's mortgagee.

(b) Not later than ten (10) days after the department of local government finance certifies to a county under IC 6-1.1-17-16 its action on the county's tax rate and tax levy for property taxes first due and payable in 2004, the department shall determine and provide to the county treasurer the wording of a statement concerning property taxes on homesteads in the county, which must be in the following or a substantially similar form, as determined by the department:

"Your assessing officials completed a general reassessment of all real property in the county first effective for property taxes payable in 2003. The reassessment was necessary to comply with Indiana law. The Indiana General Assembly has increased the property tax replacement credit and made other changes to the property tax system to substantially reduce the effects that this reassessment may have on your property tax liability. If the Indiana General Assembly had not taken these actions, the average 2004 property tax bill for homeowners in _____ County would be approximately _____ percent (___%) greater.".

The county treasurer is responsible for the preparation and mailing of the statement in the manner provided by subsection (a).

(c) This SECTION expires July 1, 2005.

SECTION 83. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) The department of local government finance may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement the following:

- (1) IC 6-1.1-4-39.
- (2) IC 6-1.1-31-3.
- (3) IC 6-1.1-31-6.
- (4) IC 6-1.1-31-7.

(c) A temporary rule adopted under this SECTION expires on the earlier of the following:

(1) The date that another temporary rule is adopted under this SECTION or a permanent rule is adopted under IC 4-22-2 to supersede the temporary rule.

(2) December 31, 2005.

SECTION 84. [EFFECTIVE UPON PASSAGE] (a) The department of local government finance may not prescribe a form for taxpayers to request a preliminary conference under IC 6-1.1-15-1, as amended by this act. Any written document containing the information specified in IC 6-1.1-15-1(b), as amended by this act, is sufficient to initiate a preliminary conference under this act.

(b) The department of local government finance may modify the form known as the "Form 130" to enable township assessors and taxpayers to report the results of preliminary conferences held under IC 6-1.1-15-1, as amended by this act, to the appropriate county property tax assessment board of appeals.

(c) The department of local government finance may not prescribe a form for taxpayers to request a hearing before the county property tax assessment board of appeals under IC 6-1.1-15-1(j), as added by this act. Any written document requesting the hearing is sufficient.

(d) The following provisions apply to a taxpayer who, before the effective date of this act, filed a petition for review of an assessment determination by a township assessor in the manner provided by IC 6-1.1-15-1, as in effect before the effective date of this act:

(1) The taxpayer is not required to file a request for a preliminary conference with the township assessor.

(2) The provisions of IC 6-1.1-15-1, as in effect before the effective date of this act, with respect to a preliminary conference with the township assessor and a hearing before the county property tax assessment board of appeals apply to the taxpayer's petition.

SECTION 85. [EFFECTIVE UPON PASSAGE] (a) The commission on state tax and financing policy established under IC 2-5-3 shall study:

(1) the elimination of property taxes as a source of funding for local government services other than:

(A) police and fire protection; and

(B) public health purposes; and

(2) alternative sources of revenue that might be used to replace the property taxes described in subdivision (1).

The commission shall complete its study not later than December 31, 2005.

(b) This SECTION expires July 1, 2006.

SECTION 86. [EFFECTIVE JANUARY 1, 2004] There is appropriated to the department of local government finance an amount sufficient from the assessment training fund established by IC 6-1.1-5.5-4.7, as amended by this act, to carry out the purposes set forth in IC 6-1.1-5.5-4.7, as amended by this act, beginning January 1, 2004, and ending June 30, 2005.

SECTION 87. [EFFECTIVE MARCH 1, 2004] (a) The definitions set forth in IC 6-1.1-20 apply throughout this SECTION.

(b) The following provisions apply to a controlled project for which a notice of preliminary determination to issue bonds or enter into a lease was published before March 1, 2004:

(1) The amendments made by IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2, and by IC 6-1.1-20-10, as added by this act, do not apply to:

(A) a petition requesting the application of the petition and remonstrance process to the controlled project; or

(B) a petition or remonstrance concerning the controlled project.

(2) IC 6-1.1-20-3.1 and IC 6-1.1-20-3.2, both as in effect before March 1, 2004, apply to:

(A) a petition requesting the application of the petition and remonstrance process to the controlled project; or

(B) a petition or remonstrance concerning the controlled project.

SECTION 88. [EFFECTIVE JANUARY 1, 2004] (a) The definitions set forth in IC 6-1.1-1 and IC 6-3-1 apply throughout this SECTION.

(b) As used in this SECTION, "deferred property tax payments" means property taxes imposed on an individual's principal place of residence for the March 1, 2002, assessment date or the January 15, 2003, assessment that are paid during calendar year 2004.

(c) An individual who pays deferred property tax payments during a taxable year is entitled to a deduction from adjusted gross income for those payments. The amount of the deduction is the lesser of:

(1) the amount of deferred property payments paid by the individual during the taxable year; or

(2) two thousand five hundred dollars (\$2,500) minus the amount of the deduction, if any, claimed by the individual for the preceding taxable year under IC 6-3-1-3.5(a)(17) for property taxes actually paid by the individual during calendar year 2003.

(d) The deduction provided by this SECTION is in addition to the deduction provided by IC 6-3-1-3.5(a)(17) for other property taxes paid during the same taxable year.

SECTION 89. An emergency is declared for this act.

P.L.24-2004

[H.1017. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 13-23-12-7, AS AMENDED BY P.L.14-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) **Except as provided in subsection (e)**, an owner of an underground storage tank who:

(1) is required to pay the fee under section 1 of this chapter; and

(2) fails to pay the fee when due as established under section 2 of this chapter;

shall be assessed a penalty of not more than two thousand dollars (\$2,000) per underground storage tank for each year that passes after the fee becomes due and before the fee is paid.

(b) Except as provided in subsection (c), each penalty assessed under this section and collected from the owner of an underground

petroleum storage tank shall be deposited as follows:

(1) Fifty percent (50%) shall be deposited in the petroleum trust fund.

(2) Fifty percent (50%) shall be deposited in the excess liability trust fund.

(c) Penalties assessed under this section and collected from owners of underground storage tanks used to contain regulated substances other than petroleum shall be deposited in the hazardous substances response trust fund.

(d) The penalty set forth in this section is in addition to the penalties that may be imposed under the following:

(1) IC 13-23-14-2.

(2) IC 13-23-14-3.

(3) IC 13-23-14-4.

(4) IC 13-30-4.

(5) IC 13-30-5.

(6) IC 13-30-6.

(7) IC 13-30-8.

(e) If an owner described in subsection (a) registered an underground storage tank before January 1, 2004, the penalty established in subsection (a) may not be assessed against the owner for any failure to pay an annual registration fee under section 1 of this chapter:

(1) in connection with the underground storage tank; and

(2) that was due before January 1, 2004.

SECTION 2. IC 13-11-2-38.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 38.3. "Concentrated animal feeding operation" or "CAFO", for purposes of IC 13-18-10 and IC 13-18-20, has the meaning set forth in 40 CFR 122.23.**

SECTION 3. IC 13-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person may not start construction of a confined feeding operation without obtaining the prior approval of the department.

(b) Obtaining an NPDES permit for a CAFO meets the requirements of subsection (a) and 327 IAC 16 to obtain an approval.

SECTION 4. IC 13-18-20-11.5 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) In addition to the fee under section 12 of this chapter, when a person files a notice of intent with the department concerning:**

- (1) an initial; or**
- (2) the renewal of a;**

general NPDES permit for a CAFO, the person must remit a permit fee of one hundred dollars (\$100) to the department.

(b) In addition to the fee under section 12 of this chapter, when a person files an application with the department concerning:

- (1) an initial; or**
- (2) the renewal of an;**

individual NPDES permit for a CAFO, the person must remit a permit fee of two hundred fifty dollars (\$250) to the department.

(c) If a person is subject to a fee for a CAFO under this section, no other fee under this chapter applies to the CAFO other than the fee under section 12 of this chapter.

SECTION 5. IC 13-11-2-144.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 144.8. "Onsite sewage system", for purposes of IC 13-18-17, means all equipment and devices necessary for proper:**

- (1) onsite:**
 - (A) conduction;**
 - (B) collection;**
 - (C) storage; and**
 - (D) treatment; and**
- (2) absorption in soil;**

of sewage from a residence or a commercial facility.

SECTION 6. IC 13-18-17-5, AS AMENDED BY P.L.168-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) The ~~water pollution control~~ board shall adopt rules under IC 4-22-2 establishing groundwater quality standards that include numeric and narrative criteria, a groundwater classification plan, and a method of determining where the groundwater quality standards must apply. The standards established under this subsection shall be used for the following purposes:**

- (1) To establish minimum compliance levels for groundwater**

quality monitoring at regulated facilities.

(2) To ban the discharge of effluents into potable groundwater.

(3) To establish health protection goals for untreated water in water supply wells.

(4) To establish concentration limits for contaminants in ambient groundwater.

(b) Except as provided in subsection (c) and subject to subsection (d), the following agencies shall adopt rules under IC 4-22-2 to apply the groundwater quality standards established under this section to activities regulated by the agencies:

(1) The department.

(2) The department of natural resources.

(3) The state department of health.

(4) The office of the state chemist.

(5) The office of the state fire marshal.

(c) The executive board of the state department of health may not adopt rules to apply the nitrate and nitrite numeric criteria included in groundwater quality standards established in rules adopted by the board under subsection (a) to onsite sewage systems.

(d) Any rule adopted by the executive board of the state department of health is void to the extent that the rule applies the nitrate and nitrite numeric criteria included in groundwater quality standards established in rules adopted by the Indiana water pollution control board under subsection (a) to onsite sewage systems.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) For purposes of this SECTION, "onsite sewage system" has the meaning set forth in IC 13-11-2-144.8, as added by this act.

(b) The department of environmental management and the state department of health shall jointly:

(1) prepare a report that includes the following:

(A) a review of literature and recent research to document:

(i) the effect of nitrates and nitrites in drinking water on public health;

(ii) the effect of onsite sewage systems on levels of nitrates and nitrites in groundwater;

(iii) the movement of nitrates and nitrites in soils; and

(iv) the onsite sewage system technologies available to achieve compliance with the nitrate and nitrite numeric criteria included in the groundwater quality standards under 327 IAC 2-11, as in effect January 1, 2004; and
 (B) the impact if newly installed onsite sewage systems were required to comply with the nitrate and nitrite numeric criteria included in the groundwater quality standards under 327 IAC 2-11, as in effect January 1, 2004, including:

(i) the number of residences and commercial facilities affected; and

(ii) the cost of implementation; and

(2) submit the report referred to in subdivision (a) before January 1, 2009, to:

(A) the governor;

(B) the executive director of the legislative services agency in an electronic format under IC 5-14-6; and

(C) the environmental quality service council.

(c) This SECTION expires January 1, 2009.

SECTION 8. P.L.231-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 6. (a) **Except as provided in subsection (b), before July 1, 2005; 2006, the:**

(1) air pollution control board, water pollution control board, or solid waste management board may not adopt a new rule; and

(2) department of environmental management may not adopt a new policy;

if the new rule or policy would require any industry described in subsection (b) that experienced at least a ten percent (10%) job loss or a ten percent (10%) decline in production during calendar years 2001, ~~and 2002, and 2003~~ to comply with a standard of conduct that exceeds the standard established in a related federal regulation or regulatory policy.

(b) Subsection (a) does not apply to the adoption of a new rule by the air pollution control board that is necessary to attain or maintain the primary or secondary national ambient air quality standards as part of a state implementation plan submitted to the United States Environmental Protection Agency under Section 110 of the federal Clean Air Act (42 U.S.C. 7410a).

(c) The following are the industries referred to in subsection (a) functioning under the following primary Standard Industrial Classification (SIC) codes:

- (1) Blast furnaces and steel mills (3312).
- (2) Gray and ductile iron foundries (3321).
- (3) Malleable iron foundries (3322).
- (4) Steel investment foundries (3324).
- (5) Steel foundries (3325).
- (6) Aluminum foundries (3365).
- (7) Copper foundries (3366).
- (8) Nonferrous foundries (3369).

(c) (d) This SECTION expires July 1, ~~2005~~ 2006.

SECTION 9. **An emergency is declared for this act.**

P.L.25-2004

[H.1019. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 22-11-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. As used in this chapter **and IC 22-11-14.5:**

"Auto burglar alarm" means a tube that contains pyrotechnic composition that produces a loud whistle or smoke when ignited. A small quantity of explosive, not exceeding fifty (50) milligrams, may also be used to produce a small report. A squib is used to ignite the device.

"Booby trap" means a small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

"Chaser" means a device, containing fifty (50) milligrams or less of

explosive composition, that consists of a small paper or cardboard tube that travels along the ground upon ignition. A whistling effect is often produced, and a small noise may be produced.

"Cigarette load" means a small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

"Common firework" means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. Common fireworks:

(1) include:

(A) ground and hand-held sparkling devices, which include dipped stick, certain wire sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flitter sparklers;

(B) aerial devices, which include sky rockets, missile-type rockets, helicopter or aerial spinners, roman candles, mines, and shells;

(C) ground audible devices, which include firecrackers, salutes, and chasers; and

(D) firework devices containing combinations of two (2) or more of the effects described in the preceding three (3) clauses; and

(2) do not include the following novelties and trick noisemakers:

(A) Snakes or glow worms.

(B) Smoke devices.

(C) Wire sparklers which contain no magnesium and which contain less than one hundred (100) grams of composition per item.

(D) Trick noisemakers, which include party poppers, booby

traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

"Cone fountain" means a cardboard or heavy paper cone which contains up to fifty (50) grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

"Cylindrical fountain" means a cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to seventy-five (75) grams of pyrotechnic composition. Fountains produce a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand-held (handle fountain).

"Dipped stick" or "wire sparkler" means a common firework that consists of a stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed one hundred (100) grams per item. Those devices containing chlorate or perchlorate salts do not exceed five (5) grams in total composition per item. Wire sparklers ~~which that~~ contain no magnesium and ~~which that~~ contain less than one hundred (100) grams of composition per item are not included in the category of common fireworks.

"Distributor" means a person who sells fireworks to wholesalers and retailers for resale.

"Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

"Firecracker" or "salute" is a device that consists of a small paper-wrapped or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic composition and that produces, upon ignition, noise, accompanied by a flash of light.

"Firework" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of common fireworks and special fireworks. The following items are excluded from the definition of fireworks:

- (1) Model rockets.
- (2) Toy pistol caps.

- (3) Emergency signal flares.
- (4) Matches.
- (5) Fixed ammunition for firearms.
- (6) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.
- (7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.
- (8) Indoor pyrotechnics special effects material.

"Flitter sparkler" means a narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition, but rather are ignited by igniting the paper at one (1) end of the tube.

"Ground spinner" means a small spinning device ~~which~~ **that** is similar to wheels in design and effect when placed on the ground and ignited, and ~~which~~ **that** produces a shower of sparks and color when spinning.

"Helicopter" or "aerial spinner" is a spinning device:

- (1) that consists of a tube up to one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;
- (2) to which some type of propeller or blade device is attached; and
- (3) that lifts into the air upon ignition, producing a visible or audible effect at the height of flight.

"Illuminating torch" means a cylindrical tube that:

- (1) contains up to one hundred (100) grams of pyrotechnic composition;
- (2) produces, upon ignition, a colored fire; and
- (3) is either a spike, base, or handle-type device.

"Importer" means:

- (1) a person who imports fireworks from a foreign country; or
- (2) a person who brings or causes fireworks to be brought within this state for subsequent sale.

"Indoor pyrotechnics special effects material" means a chemical material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 ~~(1992 edition)~~). **(2001 edition)**.

"Interstate wholesaler" means a person who is engaged in interstate

commerce selling fireworks not approved for sale in Indiana.

"Manufacturer" means a person engaged in the manufacture of fireworks.

"Mine" or "shell" means a device that:

- (1) consists of a heavy cardboard or paper tube up to two and one-half (2 1/2) inches in inside diameter, to which a wooden or plastic base is attached;
- (2) contains up to forty (40) grams of pyrotechnic composition; and
- (3) propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

"Missile-type rocket" means a device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

"Party popper" means a small plastic or paper item containing not more than sixteen (16) milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

"Person" means an individual, an association, an organization, a limited liability company, or a corporation.

"Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

"Retail sales stand" means a temporary business site or location where goods are to be sold.

"Retailer" means a person who purchases fireworks for resale to consumers.

"Roman candle" means a device that consists of a heavy paper or cardboard tube not exceeding three-eighths (3/8) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

"Sky rocket" means a device that:

- (1) consists of a tube that does not exceed one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of

pyrotechnic composition;

(2) contains a wooden stick for guidance and stability; and

(3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

"Smoke device" means a tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.

"Snake" or "glow worm" means a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices do not contain mercuric thiocyanate.

"Snapper" means a small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

"Special fireworks" means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as common fireworks.

"Trick match" means a kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

"Trick noisemaker" means an item that produces a small report intended to surprise the user.

"Wheel" means a pyrotechnic device that:

(1) is attached to a post or tree by means of a nail or string;

(2) contains up to six (6) driver units (tubes not exceeding one-half (1/2) inch in inside diameter) containing up to sixty (60) grams of composition per driver unit; and

(3) revolves, upon ignition, producing a shower of color and sparks and sometimes a whistling effect.

"Wholesaler" means a person who purchases fireworks for resale to retailers.

SECTION 2. IC 22-11-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The fire prevention and building safety commission may:

(1) adopt rules **under IC 4-22-2** for the granting of permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals; ~~The fire prevention and building safety commission created under IC 22-12-2 shall and~~

(2) establish by rule the fee for the permit, ~~A fee collected for a permit which~~ shall be paid into the fire and building services fund created under IC 22-12-6-1.

(b) The application for ~~any~~ a permit **required under subsection (a)** must:

(1) name a competent operator who is to officiate at the display; ~~together with~~

(2) **set forth** a brief resume of the operator's experience;

(3) **be made in writing; and**

(4) **be received with the applicable fee by the office of the state fire marshal at least five (5) business days before the display.**

No operator who has a prior conviction for violating this chapter may operate any display for one (1) year after the conviction.

(c) Every display shall be handled by a qualified operator ~~to be~~ approved by the chief of the fire department of the municipality in which the display is to be held. ~~and~~ **A display** shall be so located, discharged, or fired as, in the opinion of:

(1) the chief of the fire department **of the city or town in which the display is to be held;** or

(2) the township fire chief or the fire chief of the municipality nearest the site proposed, ~~in the case the exhibit or of a display is sought~~ to be held outside of the corporate limits of any city or town;

after proper inspection, is not hazardous to property or person. ~~Applications for permits must be made in writing at least fifteen (15) days in advance of the date of display.~~

(d) A permit granted under this section is not transferable.

(b) ~~A municipality may adopt an ordinance concerning the conducting and display of indoor pyrotechnics. However, an ordinance adopted under this subsection may not be more lenient than a rule adopted by a state agency.~~

(c) ~~A municipality or an organization that obtains a permit for an indoor pyrotechnics display from a local governmental entity is not~~

required to obtain a permit approved by the state fire marshal.

(e) A denial of a permit by a municipality shall be issued in writing before the date of the display.

(d) (f) A person who possesses, transports, or delivers fireworks, except as authorized under this section, commits a Class A misdemeanor.

SECTION 3. IC 22-11-14.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 14.5. Indoor Pyrotechnics

Sec. 1. As used in this chapter, "indoor pyrotechnics" means controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation, or a combination of these effects to provide the maximum effect from the least volume (as provided in National Fire Protection Association Standard 1126 (2001 edition)). The term does not include the following novelties and trick noisemakers:

- (1)** Snakes or glow worms.
- (2)** Smoke devices.
- (3)** Wire sparklers that do not contain magnesium and that contain less than one hundred (100) grams of composition per item.
- (4)** Trick noisemakers, which include party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

Sec. 2. As used in this chapter, "responding fire department" means the paid fire department or volunteer fire department that renders fire protection services to a political subdivision.

Sec. 3. The fire prevention and building safety commission shall adopt rules under IC 4-22-2 and IC 22-13-2.5 to implement a statewide code concerning displays of indoor pyrotechnics. The rules:

- (1)** must require that a certificate of insurance be issued that provides general liability coverage of at least five hundred thousand dollars (\$500,000) for the injury or death of any number of persons in any one (1) occurrence and five hundred thousand dollars (\$500,000) for property damage in any one (1) occurrence by an intended display of indoor pyrotechnics

arising from any acts of the operator of the display or the operator's agents, employees, or subcontractors;

(2) must require the person intending to present the display, to give, at least twenty four (24) hours before the time of the display, written notice of the intended display to the chief of the responding fire department of the location proposed for the display of the indoor pyrotechnics and to include with the written notice a certification from the person intending to display the indoor pyrotechnics that the display will be made in accordance with:

(A) the rules adopted under this section; and

(B) any ordinance or resolution adopted under section 4 of this chapter;

(3) must include and adopt NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience, 2001 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 12269;

(4) must be amended to adopt any subsequent edition of NFPA Standard 1126, including addenda, within eighteen (18) months after the effective date of the subsequent edition; and

(5) may provide for amendments to NFPA Standard 1126 as a condition of the adoption under subdivisions (3) and (4).

Sec. 4. A city, town, or county may adopt an ordinance or a township may adopt a resolution that:

(1) establishes requirements for displays of indoor pyrotechnics more stringent or detailed than the requirements established under this chapter; or

(2) bans the display of indoor pyrotechnics.

Sec. 5. Except as provided in section 4 of this chapter, the rules adopted under section 3 of this chapter take precedence over:

(1) an ordinance adopted by a city, town, or county; or

(2) a resolution adopted by a township;

that covers the same subject matter as the commission's rules concerning indoor pyrotechnics.

Sec. 6. A person who violates a rule adopted under this chapter commits a Class C infraction.

Sec. 7. A person who knowingly allows an individual to commit a violation of a rule adopted under this chapter commits a Class C infraction if the violation is committed on property under the

person's control.

Sec. 8. Each day that an infraction under this chapter occurs constitutes a separate infraction.

Sec. 9. A person who causes serious bodily injury to a person as a result of a reckless violation of a rule adopted under this chapter commits a Class A misdemeanor.

Sec. 10. A person who causes serious bodily injury to a person as a result of a knowing or an intentional violation of a rule adopted under this chapter commits a Class D felony.

Sec. 11. A person who causes the death of a person as a result of a reckless violation of a rule adopted under this chapter commits a Class D felony.

Sec. 12. A person who causes the death of a person as a result of a knowing or an intentional violation of a rule adopted under this chapter commits a Class C felony.

SECTION 4. IC 22-12-1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) "Bull ride simulator" means a device designed to simulate:**

(1) a rodeo bull ride; or
(2) a similarly challenging ride upon another type of animal; by subjecting the rider to a wide range of abrupt motion produced by mechanical, electrical, or hydraulic means.

(b) The term does not include devices that:

- (1) resemble animals; and**
- (2) are designed:**
 - (A) as an entertainment device;**
 - (B) to operate rhythmically within a restricted range of motion; and**
 - (C) for use by children.**

SECTION 5. IC 22-12-1-19.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 19.1. (a) "Regulated amusement device" means a device designed to carry or convey one (1) or more persons in one (1) or more planes or degrees of motion for the purpose of amusement, recreation, or entertainment.**

(b) The term includes the following:

- (1) An amusement ride.**
- (2) A ski lift.**

- (3) A passenger tramway.
- (4) An aerial tramway or lift.
- (5) A surface lift or tow.

(6) A bull ride simulator.

(c) The term does not include a passenger operated device or an inflatable amusement chamber.

SECTION 6. IC 35-47.5-4-4.5, AS ADDED BY HEA 1072-2004, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) This section does not apply to a person who is regulated under IC 14-34.

(b) The commission shall adopt rules under IC 4-22-2 to:

- (1) govern the use of a regulated explosive; and
- (2) establish requirements for the issuance of a license for the use of a regulated explosive.

(c) The commission shall include the following requirements in the rules adopted under subsection (b):

- (1) Relicensure every three (3) years after the initial issuance of a license.
- (2) Continuing education as a condition of relicensure.
- (3) An application for licensure or relicensure must be submitted to the office on forms approved by the commission.
- (4) A fee for licensure and relicensure.
- (5) Reciprocal recognition of a license for the use of a regulated explosive issued by another state if the licensure requirements of the other state are substantially similar to the licensure requirements established by the commission.

(d) A person may not use a regulated explosive unless the person has a license issued under this section for the use of a regulated explosive.

(e) The office shall carry out the licensing and relicensing program under the rules adopted by the commission.

(f) As used in this section, "regulated explosive" does not include either of the following:

- (1) ~~Consumer~~ Fireworks (as defined in ~~27 CFR 55.11~~): **27 CFR 555.11**).

- (2) Commercially manufactured black powder in quantities not to exceed fifty (50) pounds, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in

antique firearms or antique devices.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) For purposes of this SECTION, "bull ride simulator" has the meaning set forth in IC 22-12-1-3.5, as added by this act.

(b) Notwithstanding IC 22-12-1-19.1, as amended by this act, and IC 22-15-7, a bull ride simulator may be operated without a valid regulated amusement device permit through July 1, 2005, under subsection (c).

(c) To operate a bull ride simulator as described in subsection (b), the owner of the bull ride simulator must:

(1) register the bull ride simulator with the office of the state building commissioner not later than July 1, 2004, by providing the information required by the office for such a registration on a form approved by the office; and

(2) demonstrate compliance with all of the insurance requirements for regulated amusement devices under IC 22-15-7-2.5 to the office of the state building commissioner not later than July 1, 2004.

(d) If the regulated amusement device safety board established under IC 22-12-4.5-2 determines that additional safety standards specific to bull ride simulators are appropriate or needed, subject to the approval of the fire prevention and building safety commission, the regulated amusement device safety board shall adopt rules under IC 4-22-2 to establish equipment laws containing these additional safety standards for bull ride simulators not later than July 1, 2005.

(e) This SECTION expires July 1, 2005.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) It is the intent of the general assembly that a standard known as NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience, 2001 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 12269, be incorporated into the Indiana Administrative Code, as required by IC 22-11-14.5-3, as added by this act.

(b) 675 IAC 22-2.2-25(b)(1), with respect to NFPA 1126, is void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove the reference to NFPA 1126 in 675 IAC 22-2.2-25(b)(1) from the Indiana Administrative Code.

(c) The fire prevention and building safety commission shall

carry out the duties imposed upon it under IC 22-11-14.5, as added by this act, under interim guidelines approved by the executive director of the fire and building services department.

(d) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 22-11-14.5-3, as added by this act.

(2) December 31, 2005.

SECTION 9. An emergency is declared for this act.

P.L.26-2004

[H.1024. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.1-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. As used in this chapter, "vacant industrial facility" means a tract of land on which there is located a plant that:

- (1) has at least ~~three~~ **two** hundred **fifty** thousand ~~(300,000)~~ **(250,000)** square feet of floor space;
- (2) was placed in service at least twenty (20) years ago; and
- (3) has been vacant for two (2) or more years, unless the tract and the plant are owned by a municipality or a county, in which case the two (2) year requirement does not apply.

P.L.27-2004

[H.1029. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 31-9-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16 (**excluding IC 31-16-12.5**), and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

- (1) Children born out of wedlock to the parties.
- (2) Children born or adopted during the marriage of the parties.
- (b) "Child", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.
- (c) "Child", for purposes of IC 31-19-5, includes an unborn child.
- (d) "Child", for purposes of the juvenile law, means:
 - (1) a person who is less than eighteen (18) years of age;
 - (2) a person:
 - (A) who is eighteen (18), nineteen (19), or twenty (20) years of age; and
 - (B) who either:
 - (i) is charged with a delinquent act committed before the person's eighteenth birthday; or
 - (ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or
 - (3) a person:
 - (A) who is alleged to have committed an act that would have been murder if committed by an adult; and
 - (B) who was less than eighteen (18) years of age at the time of the alleged act.
- (e) "Child", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.
- (f) **"Child", for purposes of IC 31-16-12.5, means an individual**

to whom child support is owed under:

- (1) a child support order issued under IC 31-14-10 or IC 31-16-6; or**
- (2) any other child support order that is enforceable under IC 31-16-12.5.**

SECTION 2. IC 31-9-2-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 30. "Custodial parent", for purposes of IC 31-14-13-8, IC 31-14-15, **IC 31-16-12.5**, IC 31-17-2-22, and IC 31-17-4, means the parent who has been awarded physical custody of a child by a court.

SECTION 3. IC 31-14-12-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.5. (a) This section does not apply to a support order entered in a Title IV-D case.**

(b) A custodial parent may, under IC 31-16-12.5, seek a setoff of the state income tax refund of a child support obligor against whom a child support order was entered under IC 31-14-11.

SECTION 4. IC 31-16-12.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 12.5. Seizure of State Income Tax Refunds for Delinquent Child Support

Sec. 1. This chapter does not apply to a support order entered in a Title IV-D case.

Sec. 2. (a) A custodial parent may file a petition for a setoff of child support from a state income tax refund payable to a child support obligor in:

- (1) the court that entered the original child support order; or**
- (2) a court of competent jurisdiction located in the county of residence of the custodial parent.**

(b) The petition must be verified and must include all of the following:

- (1) The full name of:**
 - (A) the obligor;**
 - (B) the custodial parent; and**
 - (C) each child to whom the obligor owes child support.**
- (2) An averment that:**
 - (A) the obligor's aggregate child support arrearage on the**

date the petition is filed is at least one thousand five hundred dollars (\$1,500); and

(B) the obligor has intentionally violated the terms of the most recent child support order.

(3) An indication of whether the custodial parent:

(A) has received or is receiving assistance under the Title IV-A program; or

(B) has assigned child support payments under IC 12-14-7-1;

during the period of time for which child support is owed by the obligor.

(c) The court shall notify the child support bureau of the division of family and children of the pendency of an action under this chapter if the petition:

(1) indicates under subsection (b)(3)(A) that the custodial parent has received or is receiving assistance; or

(2) indicates under subsection (b)(3)(B) that an assignment has occurred.

(d) The state has a right to intervene as a party in a hearing under this chapter if the custodial parent has received or is receiving assistance as described in subsection (b)(3)(A) or if an assignment as described in subsection (b)(3)(B) has occurred.

Sec. 3. A custodial parent may not bring an action under this chapter with respect to an obligor's state income tax refund for a calendar year if the child support bureau has initiated an action under IC 6-8.1-9.5 to set off the obligor's tax refund for that calendar year.

Sec. 4. (a) A court that receives a petition under section 1 of this chapter shall send an order requiring the department of state revenue to determine the obligor's eligibility for a state income tax refund, whether the obligor filed a joint state income tax return, and if the obligor filed a joint state income tax return, the name and address of the individual with whom the obligor filed the joint state income tax return, if the court preliminarily determines that probable cause exists to believe that the obligor named in the petition:

(1) was at least one thousand five hundred dollars (\$1,500) in arrears on child support payments at the time the custodial parent filed the petition under section 2 of this chapter; and

(2) has intentionally violated the terms of the most recent support order.

(b) The department of state revenue, upon receiving an order under subsection (a), shall notify the court whether the obligor named in the order:

(1) is eligible for a state income tax refund; and

(2) has filed a joint state income tax return, and if the obligor has filed a joint state income tax return, the name and address of the individual with whom the obligor filed the joint state income tax return.

Sec. 5. (a) If the court receives notification under section 4(b) of this chapter that the obligor is eligible for a state income tax refund, the court shall set the matter for a hearing at least thirty (30) days after the date that the court receives notification under section 4(b) of this chapter.

(b) If the court sets the matter for a hearing under subsection (a), the court must send notice of the hearing by certified mail, return receipt requested, to the most recent address of the obligor. The notice must include the date of the hearing and a copy of the petition filed under section 2 of this chapter.

(c) If the court receives notification under section 4(b) of this chapter that the obligor filed a joint state income tax return, the court shall send a notice to the individual with whom the obligor filed a joint state income tax return by certified mail, return receipt requested, and inform the individual:

(1) of the hearing date;

(2) that the court may order the individual's and obligor's joint state income tax refund to be intercepted for the obligor's past due child support payments; and

(3) that the individual may petition the court or provide testimony at the hearing that the individual believes that part of the individual's and obligor's joint state income tax refund should not be intercepted for the obligor's child support and should be paid to the individual.

Sec. 6. (a) The court shall issue a final order for a state income tax refund setoff following a hearing under this chapter if the court determines by clear and convincing evidence that the obligor named in the petition:

(1) is at least one thousand five hundred dollars (\$1,500) in

arrears on child support payments; and

(2) has intentionally violated the terms of the most recent child support order applying to the obligor.

(b) The final order must include the amount of child support arrearage that the department of state revenue shall withhold from the obligor's state income tax refund and the obligor's Social Security number.

(c) In order for the setoff to take effect with respect to a state income tax refund, the final order of the court must be received by the department of state revenue before November 1 of the taxable year for which the tax refund is payable.

Sec. 7. (a) The department of state revenue shall submit the refund amount set forth in the final order to the clerk of the circuit court for distribution.

(b) If the custodial parent:

(1) has received or is receiving assistance under the Title IV-A program; or

(2) has assigned child support payments under IC 12-14-7-1; during the period of time for which child support is owed by the obligor, the court shall determine whether a portion of the refund must be distributed to the state under subsection (c).

(c) If the court determines that an amount is owed to the state under subsection (b), the court shall order the clerk of the circuit court to distribute the refund:

(1) to the state in an amount determined by the court; and

(2) to the custodial parent in any amount remaining after distribution under subdivision (1).

Sec. 8. A final order issued under section 6 of this chapter may include interest charges in an amount determined under IC 31-14-12-1 or IC 31-16-12-2.

P.L.28-2004

[H.1032. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning the general assembly.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-5-1.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6. The council shall:

- (1) coordinate and assist the work of standing or interim committees, subcommittees or commissions appointed by the council or at the direction of the general assembly or of the senate or house of representatives;
- (2) review the operations, budgetary practices and expenditures of all state agencies, including departments, boards, offices, commissions and political subdivisions;
- (3) recommend such changes in the rules and procedures of the senate and house of representatives as may advance the consideration of legislation by the general assembly;
- (4) work with the standing and interim committees, subcommittees and commissions of the general assembly or of the senate or house of representatives to assure efficient utilization of legislative services agency employees;
- (5) publish such records, schedules, indexes and reports as the general assembly may require;
- (6) arrange and contract for the printing of bills, enrolled acts, session laws, journals, the Indiana Code and supplements to the Indiana Code, the Indiana Administrative Code and supplements to the Indiana Administrative Code, the Indiana Register, and the miscellaneous printing needs, supplies and equipment of the council, legislative services agency, and the general assembly;
- (7) provide adequate quarters and office space for all legislative activities;
- (8) serve as the policy-making board for, and in general supervise

the operation of, all staff services of the legislative services agency whether the general assembly is in or out of session;

(9) submit a report of its activities to the ~~members of the~~ general assembly **in an electronic format under IC 5-14-6** and to the governor; and

(10) do all other things necessary and proper to perform the functions of the legislative department.

SECTION 2. IC 2-5-1.1-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6.5.

(a) The council shall, upon consultation with the governor's office, develop an annual report format taking into consideration, among other things, program budgeting, with the final format to be determined by the council. The format may be distributed to any agency (as defined in IC 2-5-21-1). The agency shall complete and return ~~fifteen (15) copies~~ **a copy in an electronic format under IC 5-14-6** to the legislative council before September 1 of each year for the preceding fiscal year.

(b) The council shall distribute one (1) copy to the governor's office, one (1) copy to the budget agency, and three (3) copies to the state library.

(c) The reports are a public record and are open to inspection.

SECTION 3. IC 2-5-1.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8.

(a) All boards, commissions, and committees performing official legislative business between the regular sessions of the general assembly may be required to submit to the council progress reports and a final report. Such reports shall contain such information as the council may require **and must be in an electronic format under IC 5-14-6.**

(b) The budget committee of the state budget agency shall, upon request of the council, report to the council **in an electronic format under IC 5-14-6** on the progress of its activities including an estimate of the revenues, an estimate of the surplus of revenues over expenditures, a report of current and projected expenditures and any other data which will enhance an understanding of the fiscal affairs of the state.

SECTION 4. IC 2-5-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4. (a) The

legislative council may refer by resolution any matter related to the commission's function as described in section 1(g) of this chapter.

(b) When any matter is referred to the commission by the legislative council, the commission shall conduct a study of the matter and shall make a ~~written~~ report of the study results **in an electronic format under IC 5-14-6** to the legislative council.

(c) The commission may appoint subcommittees, subject to the authority of the commission, to carry out studies on matters related to its functions.

(d) The commission may request and shall receive from any department, division, board, commission, or agency of this state or of any political subdivision thereof or from any organization, incorporated or unincorporated, such assistance, information, and data as will enable it properly to carry out its activities and effectuate its purposes under this chapter.

(e) The legislative services agency shall provide staff support to the commission.

SECTION 5. IC 2-5-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5. (a) The commission shall study and investigate:

- (1) the present state, county, and city tax structure of the state of Indiana;
- (2) its revenue-producing characteristics and effects upon the economy of the state of Indiana;
- (3) its equalities and fairness;
- (4) the enforcement policies and administrative practices related to that tax structure; and
- (5) the costs of collection in relationship to the burden of the tax.

In addition, the commission shall examine overall administrative matters, fiscal matters, and procedural problems of the various departments of the state, county, and city governments as they relate to tax and financing policy. The commission shall make recommendations to the end that there will be formulated certain guiding policies that will assure the accomplishment of the policy expressed in this chapter.

(b) The legislative council may refer by resolution any tax or financing problems and correlated matters to the commission for study and research. When any matter is referred to the commission by the legislative council, the commission shall make a study of the problem

submitted and shall ~~make a written~~ report of the study results **in an electronic format under IC 5-14-6** to the legislative council.

(c) The legislative services agency shall provide staff support to the commission.

SECTION 6. IC 2-5-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4. The commission shall annually report the results of its study **in an electronic format under IC 5-14-6** to the general assembly before November 1.

SECTION 7. IC 2-5-16-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 11. The commission shall submit reports **in an electronic format under IC 5-14-6** to the legislative council as and when requested by the council.

SECTION 8. IC 2-5-16-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 13. The legislative council may refer any issue related to probate or trusts and fiduciaries to the commission for study. If a matter is referred to the commission under this section, the commission shall study that matter and report **in an electronic format under IC 5-14-6** to the legislative council as requested by the council.

SECTION 9. IC 2-5-20-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8. The commission shall annually report the results of the commission's study **in an electronic format under IC 5-14-6** to the general assembly before November 1.

SECTION 10. IC 2-5-23-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 14. The commission shall submit to the legislative council findings and recommendations **in an electronic format under IC 5-14-6** on any topic assigned to the commission by the legislative council.

SECTION 11. IC 2-5-25-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6. The water resources study committee shall do the following:

- (1) Operate under the direction of the legislative council.
- (2) Issue reports **in an electronic format under IC 5-14-6** when directed to do so by the legislative council.

SECTION 12. IC 2-5-26-10, AS ADDED BY P.L.256-2001,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10. (a) Except as provided in subsection (b), the commission shall operate under the policies governing study committees adopted by the legislative council, including the requirement of filing an annual report **in an electronic format under IC 5-14-6.**

(b) The commission may meet at any time during the calendar year.

SECTION 13. IC 4-1-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9. (a) Under the authority of the governor, a report shall be prepared, on or before December 1 ~~1977~~, ~~and~~ annually, ~~thereafter~~, advising the general assembly of the personal information systems, or parts thereof, of agencies subject to this chapter, which are recommended to be maintained on a confidential basis by specific statutory authorization because their disclosure would constitute an invasion of personal privacy and there is no compelling, demonstrable and overriding public interest in disclosure. Such recommendations may include, but not be limited to, specific personal information systems or parts thereof which can be categorized as follows:

(1) Personal information maintained with respect to students and clients, patients or other individuals receiving social, medical, vocational, supervisory or custodial care or services directly or indirectly from public bodies.

(2) Personal information, excepting salary information, maintained with respect to employees, appointees or elected officials of any public body or applicants for such positions.

(3) Information required of any taxpayer in connection with the assessment or collection of any income tax. ~~and~~

(4) Information revealing the identity of persons who file complaints with administrative, investigative, law enforcement or penology agencies.

(b) In addition, such report may list records or categories of records, which are recommended to be exempted from public disclosure by specific statutory authorization for reasons other than that their disclosure would constitute an unwarranted invasion of personal privacy, along with justification therefor.

(c) A report described in this section must be in an electronic format under IC 5-14-6.

SECTION 14. IC 4-1-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7. Each state agency, which is exempt under the provisions of section 1 of this chapter, shall prepare a report, on or before January 1 ~~1978~~, ~~and~~ annually, ~~thereafter~~, to the general assembly setting forth any form, application, or other writing required or maintained by it which contains the social security number of any individual. Such report shall also set forth the reason or rationale for requiring such social security number. **The report must be in an electronic format under IC 5-14-6.**

SECTION 15. IC 4-3-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4. Whenever the governor, after investigation, finds that:

- (~~a~~) **(1)** the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency;
- (~~b~~) **(2)** the abolition of all or any part of the functions of any agency;
- (~~c~~) **(3)** the consolidation or coordination of the whole or any part of any agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof;
- (~~d~~) **(4)** the consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof;
- (~~e~~) **(5)** the authorization of any officer to delegate any of ~~his~~ **that officer's** functions; or
- (~~f~~) **(6)** the abolition of the whole or any part of any agency which agency or part does not have, or upon the taking effect of the reorganization plan will not have any functions;

is necessary to accomplish one (1) or more of the purposes of this chapter, ~~he~~ **the governor** shall prepare a reorganization plan for accomplishing the changes in government indicated by ~~his~~ **the governor's** findings ~~and which he includes~~ **included** in the plan, and shall submit the plan **in an electronic format under IC 5-14-6** to the general assembly, together with a declaration that, with respect to each reorganization included in the plan ~~he~~ **the governor** has found that the reorganization is necessary to accomplish one (1) or more of the

purposes of this chapter. The governor, in ~~his~~ **the** message submitting a reorganization plan, shall specify, with respect to each abolition of a function included in the plan, the statutory authority for the exercise of the function, and shall specify the reduction of expenditures which it is probable will be brought about by the taking effect of the reorganizations included in the plan.

SECTION 16. IC 4-3-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2. The articles of incorporation and bylaws of the Indiana business modernization and technology corporation must provide that:

- (1) the purposes of the corporation are to contribute to the strengthening of the economy of the state through the development of science and technology and to promote the modernization of Indiana businesses by supporting the transfer of science, technology, and quality improvement methods to the workplace;
- (2) the board of directors of the corporation is composed of twenty-five (25) natural persons appointed by the governor with eight (8) persons representing the public sector, eight (8) persons representing the private business and labor sector, eight (8) persons who are educators, and one (1) person who shall serve as chairman and shall represent the public sector, the private business and labor sector, or the education sector;
- (3) the board of directors, with the approval of the governor, shall appoint an executive committee composed of seven (7) of its members;
- (4) the corporation may receive money from any source, may borrow money, may enter into contracts, and may expend money for any activities appropriate to its purpose;
- (5) the corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 3 of this chapter;
- (6) any changes in the articles of incorporation or bylaws must be approved by the governor;
- (7) the corporation shall submit an annual report to the governor and to the ~~Indiana~~ general assembly; that the report is due on the first day of November for each year and shall include detailed information on the structure, operation, and financial status of the

corporation; **that the report submitted to the general assembly must be in an electronic format under IC 5-14-6**; that the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the report; and that notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and (8) the corporation is subject to an annual audit by the state board of accounts, and that the corporation shall bear the full costs of this audit.

SECTION 17. IC 4-3-12-2, AS AMENDED BY P.L.58-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2. (a) The articles of incorporation and bylaws of the Indiana small business development corporation must provide that:

- (1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by encouraging the organization and development of new business enterprises, including technologically oriented enterprises;
- (2) the board of directors of the corporation is composed of:
 - (A) the lieutenant governor or the lieutenant governor's designee;
 - (B) two (2) persons appointed by the governor from recommendations provided by statewide business organizations;
 - (C) two (2) persons appointed by the governor to represent local host organizations of the small business development center network;
 - (D) three (3) persons appointed by the governor, who must have experience in business, finance, education, entrepreneurship, or technology development; and
 - (E) one (1) person appointed by the governor to represent nontraditional entrepreneurs (as defined in IC 4-3-13-6);
- (3) the governor shall appoint one (1) of the members of the board of directors to serve as chairman of the board at the pleasure of the governor;
- (4) the corporation may receive money from any source, may enter into contracts, and may expend money for any activities appropriate to its purpose;

(5) the corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 3 of this chapter;

(6) any changes in the articles of incorporation or bylaws must be approved by the governor;

(7) the corporation shall submit an annual report to the governor and to the ~~Indiana~~ general assembly on or before the first day of November for each year;

(8) the annual report shall include detailed information on the structure, operation, and financial status of the corporation;

(9) the annual report submitted under subdivision (7) to the general assembly must be in an electronic format under IC 5-14-6;

(10) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and

~~(10)~~ **(11)** the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

(b) Not more than five (5) of the members of the board of directors of the corporation may be members of the same political party.

SECTION 18. IC 4-3-13-15, AS AMENDED BY P.L.58-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 15. (a) The corporation shall perform the following duties:

(1) Establish and implement the policies and procedures to be used by the corporation in the administration of the fund.

(2) Subject to section 17 of this chapter, establish criteria for awarding loans from the fund.

(3) Review and approve or disapprove applications for loans from the fund.

(4) Establish the terms of loans from the fund, which must include the conditions set forth in section 18 of this chapter.

(5) Award the loans approved under this chapter.

(6) Provide the staff and other resources necessary to implement this chapter.

(7) Prepare and distribute to appropriate entities throughout Indiana requests for proposals for the organization and operation of local pools.

(8) Conduct conferences and seminars concerning the fund.

(9) Submit a report concerning the fund to the general assembly before November 1 of each year. The report must include detailed information concerning the structure, operation, and financial condition of the fund **and must be in an electronic format under IC 5-14-6.**

(b) The corporation may enter into contracts necessary for the administration of this chapter, including contracts for the servicing of loans from the fund.

SECTION 19. IC 4-3-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4.

(a) The articles of incorporation or bylaws of the corporation, as appropriate, must provide that:

(1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by:

(A) coordinating the activities of all parties having a role in the state's economic development through evaluating, overseeing, and appraising those activities on an ongoing basis;

(B) overseeing the implementation of the state's economic development plan and monitoring the updates of that plan; and

(C) educating and assisting all parties involved in improving the long range vitality of the state's economy;

(2) the board must include:

(A) the governor;

(B) the lieutenant governor;

(C) the chief operating officer of the corporation;

(D) the chief operating officer of the corporation for Indiana's international future; and

(E) additional persons appointed by the governor, who are actively engaged in Indiana in private enterprise, organized labor, state or local governmental agencies, and education, and who represent the diverse economic and regional interests throughout Indiana;

(3) the governor shall serve as chairman of the board of the corporation, and the lieutenant governor shall serve as the chief

executive officer of the corporation;

(4) the governor shall appoint as vice chairman of the board a member of the board engaged in private enterprise;

(5) the lieutenant governor shall be responsible as chief executive officer for overseeing implementation of the state's economic development plan as articulated by the corporation and shall oversee the activities of the corporation's chief operating officer;

(6) the governor may appoint an executive committee composed of members of the board (size and structure of the executive committee shall be set by the articles and bylaws of the corporation);

(7) the corporation may receive funds from any source and may expend funds for any activities necessary, convenient, or expedient to carry out its purposes;

(8) any amendments to the articles of incorporation or bylaws of the corporation must be approved by the governor;

(9) the corporation shall submit an annual report to the governor and to the ~~Indiana~~ general assembly on or before the first day of November for each year;

(10) the annual report submitted under subdivision (9) to the general assembly must be in an electronic format under IC 5-14-6;

(11) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen

(14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and

~~(H)~~ **(12)** the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

(b) The corporation may perform other acts and things necessary, convenient, or expedient to carry out the purposes identified in this section, and it has all rights, powers, and privileges granted to corporations by IC 23-17 and by common law.

SECTION 20. IC 4-3-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4.

(a) The articles of incorporation or bylaws of the corporation, as appropriate, must provide that:

(1) the exclusive purpose of the corporation is to strengthen Indiana's ability to compete in the global economy and to encourage educational and cultural contacts and exchanges between Indiana citizens and citizens of other countries, by:

(A) coordinating the activities of all parties having a role in Indiana's international economic development by evaluating, overseeing, and appraising those activities on an ongoing basis; and

(B) educating and assisting all parties involved in improving the ability of Indiana's citizens to participate in international programs of education, culture, and social understandings;

(2) the board must include:

(A) the governor;

(B) the lieutenant governor; and

(C) additional persons appointed by the governor, who have knowledge or experience in international economic or cultural activity, who are actively engaged in Indiana in private enterprise, manufacturing and steel industries, labor organizations, state or local governmental agencies, agriculture, and education, and who represent the diverse economic and regional interests throughout Indiana;

(3) the governor shall designate a member of the board to serve as chairman of the board;

(4) the board shall select any other officers it considers necessary, such as a vice chairman, treasurer, or secretary;

(5) the chairman of the board may appoint any subcommittees that the chairman considers necessary to carry out the duties of the corporation;

(6) with the approval of the governor, the corporation may appoint a president, who shall serve as the chief operating officer of the corporation and who may appoint staff or employ consultants to carry out the corporation's duties under this chapter, including personnel to receive or disseminate information that furthers the goals of the corporation;

(7) the corporation may receive funds from any source (including state appropriations), may enter into contracts, and may expend funds for any activities necessary, convenient, or expedient to carry out its purposes;

- (8) any amendments to the articles of incorporation or bylaws of the corporation must be approved by the governor;
- (9) the corporation shall submit an annual report to the governor, lieutenant governor, and chairman of the legislative council before December 31 of each year;
- (10) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days before the hearing in accordance with IC 5-14-1.5-5(b); and
- (11) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

An annual report described in subdivision (9) that is submitted to the chairman of the legislative council must be in an electronic format under IC 5-14-6.

(b) The corporation may perform other acts necessary, convenient, or expedient to carry out its purposes under this chapter, and it has all rights, powers, and privileges granted to corporations by IC 23-17 and by common law.

SECTION 21. IC 4-3-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4.

(a) The articles of incorporation or bylaws of the corporation, as appropriate, must provide that:

- (1) the exclusive purpose of the corporation is to provide grants and serve as a resource for education programs on drug and alcohol abuse, by providing assistance to persons or entities involved with:
 - (A) coordinating the activities of all parties having a role in drug and alcohol abuse education and prevention; and
 - (B) educating and assisting local communities in educating Indiana citizens on the problems of drug and alcohol abuse;
- (2) the board must include:
 - (A) the governor or the governor's designee;
 - (B) the state health commissioner or the commissioner's designee; and
 - (C) additional persons appointed by the governor, who have knowledge or experience in drug or alcohol education

programs;

(3) the governor shall designate a member of the board to serve as chairman of the board;

(4) the board shall select any other officers it considers necessary, such as a vice chairman, treasurer, or secretary;

(5) the chairman of the board may appoint any subcommittees that the chairman considers necessary to carry out the duties of the corporation;

(6) with the approval of the governor, the corporation may appoint a president, who shall serve as the chief operating officer of the corporation and who may appoint staff or employ consultants to carry out the corporation's duties under this chapter, including personnel to receive or disseminate information that furthers the goals of the corporation;

(7) the corporation may receive funds from any source (including state appropriations), may enter into contracts, and may expend funds for any activities necessary, convenient, or expedient to carry out its purposes;

(8) any amendments to the articles of incorporation or bylaws of the corporation must be approved by the board;

(9) the corporation shall submit an annual report to the governor, lieutenant governor, and chairman of the legislative council before December 31 of each year;

(10) the corporation shall conduct an annual public hearing to receive comments from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days before the hearing in accordance with IC 5-14-1.5-5(b); and

(11) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

An annual report described in subdivision (9) that is submitted to the chairman of the legislative council must be in an electronic format under IC 5-14-6.

(b) The corporation may perform other acts necessary, convenient, or expedient to carry out its purposes under this chapter and has all the rights, powers, and privileges granted to corporations by IC 23-17 and by common law.

(c) With the approval of the governor, the corporation may merge with an entity with similar purposes. If the corporation merges with another entity under this subsection, the governor shall revoke the certification under section 7 of this chapter.

SECTION 22. IC 4-3-19-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 29. The board shall submit a report to the governor and the legislative council before November 1 of each year. The report must include the findings and recommendations of the board. **The report submitted to the legislative council must be in an electronic format under IC 5-14-6.**

SECTION 23. IC 4-4-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8. (a) The department shall develop and promote programs designed to make the best use of the resources of the state so as to assure a balanced economy and continuing economic growth for Indiana and for those purposes may do the following:

- (1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of the resources of the state.
- (2) Receive and expend all funds, grants, gifts, and contributions of money, property, labor, interest accrued from loans made by the department, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government. The department:
 - (A) may accept federal grants for providing planning assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;
 - (B) shall administer these grants in accordance with their terms; and
 - (C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.
- (3) Direct that assistance, information, and advice regarding the duties and functions of the department be given the department by any officer, agent, or employee of the state. The head of any other state department or agency may assign one (1) or more of the

department's or agency's employees to the department on a temporary basis, or may direct any division or agency under the department's or agency's supervision and control to make any special study or survey requested by the director.

(b) The department shall perform the following duties:

(1) Disseminate information concerning the industrial, commercial, governmental, educational, cultural, recreational, agricultural, and other advantages of Indiana.

(2) Plan, direct, and conduct research activities.

(3) Develop and implement industrial development programs to encourage expansion of existing industrial, commercial, and business facilities within Indiana and to encourage new industrial, commercial, and business locations within Indiana.

(4) Assist businesses and industries in acquiring, improving, and developing overseas markets and encourage international plant locations within Indiana. The director, with the approval of the governor, may establish foreign offices to assist in this function.

(5) Promote the growth of minority business enterprises by doing the following:

(A) Mobilizing and coordinating the activities, resources, and efforts of governmental and private agencies, businesses, trade associations, institutions, and individuals.

(B) Assisting minority businesses in obtaining governmental or commercial financing for expansion, establishment of new businesses, or individual development projects.

(C) Aiding minority businesses in procuring contracts from governmental or private sources, or both.

(D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(6) Assist in community economic development planning and the implementation of programs designed to further this development.

(7) Assist in the development and promotion of Indiana's tourist resources, facilities, attractions, and activities.

(8) Assist in the promotion and marketing of Indiana's agricultural products, and provide staff assistance to the director in fulfilling the director's responsibilities as commissioner of agriculture.

(9) Perform the following energy related functions:

(A) Assist in the development and promotion of alternative

energy resources, including Indiana coal, oil shale, hydropower, solar, wind, geothermal, and biomass resources.

(B) Encourage the conservation and efficient use of energy, including energy use in commercial, industrial, residential, governmental, agricultural, transportation, recreational, and educational sectors.

(C) Assist in energy emergency preparedness.

(D) ~~Not later than January 1, 1994,~~ Establish:

(i) specific goals for increased energy efficiency in the operations of state government and for the use of alternative fuels in vehicles owned by the state; and

(ii) guidelines for achieving the goals established under item (i).

(E) Establish procedures for state agencies to use in reporting to the department on energy issues.

(F) Carry out studies, research projects, and other activities required to:

(i) assess the nature and extent of energy resources required to meet the needs of the state, including coal and other fossil fuels, alcohol fuels produced from agricultural and forest products and resources, renewable energy, and other energy resources;

(ii) promote cooperation among government, utilities, industry, institutions of higher education, consumers, and all other parties interested in energy and recycling market development issues; and

(iii) promote the dissemination of information concerning energy and recycling market development issues.

(10) Implement any federal program delegated to the state to effectuate the purposes of this chapter.

(11) Promote the growth of small businesses by doing the following:

(A) Assisting small businesses in obtaining and preparing the permits required to conduct business in Indiana.

(B) Serving as a liaison between small businesses and state agencies.

(C) Providing information concerning business assistance programs available through government agencies and private

sources.

(12) Assist the Indiana commission for agriculture and rural development in performing its functions under IC 4-4-22.

(13) Develop and promote markets for the following recyclable items:

- (A) Aluminum containers.
 - (B) Corrugated paper.
 - (C) Glass containers.
 - (D) Magazines.
 - (E) Steel containers.
 - (F) Newspapers.
 - (G) Office waste paper.
 - (H) Plastic containers.
 - (I) Foam polystyrene packaging.
 - (J) Containers for carbonated or malt beverages that are primarily made of a combination of steel and aluminum.
- (14) Produce an annual recycled products guide and at least one (1) time each year distribute the guide to the following:
- (A) State agencies.
 - (B) The judicial department of state government.
 - (C) The legislative department of state government.
 - (D) State educational institutions (as defined in IC 20-12-0.5-1).
 - (E) Political subdivisions (as defined in IC 36-1-2-13).
 - (F) Bodies corporate and politic created by statute.

A recycled products guide distributed under this subdivision must include a description of supplies and other products that contain recycled material and information concerning the availability of the supplies and products.

(c) The department shall submit a report **in an electronic format under IC 5-14-6** to the general assembly before October 1 of each year concerning the availability of and location of markets for recycled products in Indiana. The report must include the following:

- (1) A priority listing of recyclable materials to be targeted for market development. The listing must be based on an examination of the need and opportunities for the marketing of the following:
- (A) Paper.
 - (B) Glass.

- (C) Aluminum containers.
 - (D) Steel containers.
 - (E) Bi-metal containers.
 - (F) Glass containers.
 - (G) Plastic containers.
 - (H) Landscape waste.
 - (I) Construction materials.
 - (J) Waste oil.
 - (K) Waste tires.
 - (L) Coal combustion wastes.
 - (M) Other materials.
- (2) A presentation of a market development strategy that:
- (A) considers the specific material marketing needs of Indiana; and
 - (B) makes recommendations for legislative action.
- (3) An analysis that examines the cost and effectiveness of future market development options.

SECTION 24. IC 4-4-5.1-12, AS ADDED BY P.L.224-2003, SECTION 245, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 12. The board shall submit an annual report **in an electronic format under IC 5-14-6** to the legislative council before September 1. The report must contain the following information concerning fund activity in the preceding state fiscal year:

- (1) The name of each entity receiving a grant from the fund.
- (2) The location of each entity sorted by:
 - (A) county, in the case of an entity located in Indiana; or
 - (B) state, in the case of an entity located outside Indiana.
- (3) The amount of each grant awarded to each entity.

SECTION 25. IC 4-4-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5. (a) The department shall administer the fund and receive all grants allocated by any federal program for the purposes specified in section 6(b) of this chapter. Guidelines shall be prepared by the department enumerating the qualification procedures for receipt of grants and loans from the fund. These guidelines must be consistent with state law and federal program requirements.

- (b) The director, with the approval of the state budget agency and

the governor, shall allocate portions of the fund for the purposes specified in section 6(b) of this chapter. The department shall make allocations on the basis of the need of the qualified entity.

(c) The department shall keep complete sets of records showing all transactions by the fund in such a manner as to be able to prepare at the end of each fiscal year a complete report to the general assembly **in an electronic format under IC 5-14-6**. The information in the report must be sufficient to permit a complete review and understanding of the operation and financial condition of the fund.

SECTION 26. IC 4-4-9.5-2, AS ADDED BY P.L.155-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2. With the approval of the governing board of the council, the council shall do the following:

(1) Develop a rural economic development strategy for Indiana to assist Indiana's rural residents in improving their quality of life and to help promote successful and sustainable rural communities. The rural economic development strategy must include goals and recommendations concerning the following issues:

- (A) Job creation and retention.
- (B) Infrastructure, including water, wastewater, and storm water infrastructure needs.
- (C) Housing.
- (D) Workforce training.
- (E) Health care.
- (F) Local planning.
- (G) Land use.
- (H) Assistance to regional rural development groups.
- (I) Other rural development issues, as determined by the council.

(2) ~~Beginning in 2002~~; Submit before October 1 of each year an annual report **in an electronic format under IC 5-14-6** to the legislative council. A report submitted under this section is intended to do the following:

- (A) Inform the general assembly of the council's work during the period covered by the report.
- (B) Assist the general assembly in monitoring issues affecting rural communities and responding to the needs of rural

residents.

- (3) Testify concerning rural development issues before any standing committee or study committee established by the general assembly, as requested by the legislative council.

SECTION 27. IC 4-4-16.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6.

(a) The commission shall conduct appropriate studies and present ~~fifty (50) copies of~~ an annual report **in an electronic format under IC 5-14-6** to the legislative council and a summary letter **in an electronic format under IC 5-14-6** to the general assembly through the legislative council no later than December 1 each year. The report must address the following issues:

- (1) Ways in which the utilization of Indiana steel can be expanded within Indiana and the world.
- (2) Ways in which any additional problems included in the examination conducted under section 5 of this chapter may be remedied.
- (3) Recommend modification, if any, of state statutes or rules.

(b) The commission may request officials of government agencies in Indiana to attend its meetings and provide technical assistance and information as requested by the commission.

SECTION 28. IC 4-4-18-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 22. Before July 2 each year, the corporation shall provide the legislative council and the governor with a report that includes the following information:

- (1) The number of applications for incubators received by the corporation.
- (2) The number of applications for incubators approved by the corporation.
- (3) The number of incubators created under this chapter.
- (4) The number of tenants occupying each incubator.
- (5) The occupancy rate of each incubator.
- (6) The number of jobs provided by each incubator and the tenants of each incubator.
- (7) The number of firms still operating in Indiana after leaving incubators, and the number of jobs provided by those firms. The corporation shall attempt to identify the reasons firms that were

established in an incubator have moved to another state.

A report provided under this section to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 29. IC 4-4-29-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9. The council shall submit an annual report to the governor and to the general assembly on or before the first day of November each year. **A report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 30. IC 4-6-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6. (~~Legislative Recommendations~~) The division shall make legislative recommendations to the legislative council for transmittal to the general assembly. **The recommendations must be in an electronic format under IC 5-14-6.**

SECTION 31. IC 4-7-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2. The auditor of state shall do the following:

- (1) Keep and state all accounts between the state of Indiana and the United States, any state or territory, or any individual or public officer of this state indebted to the state or entrusted with the collection, disbursement, or management of any money, funds, or interest arising therefrom, belonging to the state, of every character and description whatsoever, when the money, funds, or interest is derivable from or payable into the state treasury.
- (2) Examine and liquidate the accounts of all county treasurers and other collectors and receivers of all state revenues, taxes, tolls, and incomes, levied or collected by any act of the general assembly and payable into the state treasury, and certify the amount or balance to the treasurer of state.
- (3) Keep fair, clear, distinct, and separate accounts of all the revenues and incomes of the state and all expenditures, disbursements, and investments of the state, showing the particulars of every expenditure, disbursement, and investment.
- (4) Examine, adjust, and settle the accounts of all public debtors for debts due the state treasury and require all public debtors or their legal representatives who may be indebted to the state for money received or otherwise and who have not accounted for a

debt to settle their accounts.

(5) Examine and liquidate the claims of all persons against the state in cases where provisions for the payment have not been made by law. When no such provisions or an insufficient one ~~(+)~~ has been made, examine the claim and report the facts, with an opinion, to the general assembly. No allowance shall be made to refund money from the treasury without the statement of the auditor of state either for or against the justice of the claim.

(6) Institute and prosecute, in the name of the state, all proper suits for the recovery of any debts, money, or property of the state or for the ascertainment of any right or liability concerning the debts, money, or property.

(7) Direct and superintend the collection of all money due to the state and employ counsel to prosecute suits, instituted at the auditor's instance, on behalf of the state.

(8) Draw warrants on the treasurer of state or authorize disbursement through electronic funds transfer in conformity with IC 4-8.1-2-7 for all money directed by law to be paid out of the treasury to public officers or for any other object whatsoever as the warrants become payable. Every warrant or authorization for electronic funds transfer shall be properly numbered.

(9) Furnish to the governor, on requisition, information in writing upon any subject relating to the duties of the office of the auditor of state.

(10) Superintend the fiscal concerns of the state and their management in the manner required by law and furnish the proper forms to assessors, treasurers, collectors, and auditors of counties.

(11) Keep and preserve all public books, records, papers, documents, vouchers, and all conveyances, leases, mortgages, bonds, and all securities for debts, money, or property, and accounts and property, of any description, belonging or appertaining to the office of the auditor of state and also to the state, where no other provision is made by law for the safekeeping of the accounts and property.

(12) Suggest plans for the improvement and management of the public revenues, funds, and incomes.

(13) Report and exhibit to the general assembly, at its meeting in each odd-numbered year, a complete statement of the revenues,

taxables, funds, resources, incomes, and property of the state, known to the office of the auditor of state and of the public revenues and expenditures of the two (2) preceding fiscal years, with a detailed estimate of the expenditures to be defrayed from the treasury for the ensuing two (2) years, specifying each object of expenditure and distinguishing between each object of expenditure and between such as are provided for by permanent or temporary appropriations, and such as require to be provided for by law, and showing also the sources and means from which all such expenditures are to be defrayed. **The report must be in an electronic format under IC 5-14-6.**

SECTION 32. IC 4-8.1-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 14. The treasurer **of state** shall prepare a report annually before October 15 that summarizes, for the fiscal year that ended on the preceding June 30, the following information for the general fund and all other funds managed by the treasurer **of state**:

- (1) Statutory and administrative investment policies.
- (2) Average daily amounts of cash and investments.
- (3) Rates of return.
- (4) Earnings.
- (5) Portfolio composition.
- (6) Other information considered relevant by the treasurer **of state**.

Before November 1 of each year, the treasurer shall provide a copy of the report to the governor, the lieutenant governor, ~~and the state budget director, and the legislative council~~. In addition, the treasurer **of state** shall ~~deposit twenty (20) copies of~~ **provide** the report ~~with in an electronic format under IC 5-14-6 to the legislative council and the legislative services agency~~ for the use of the members of the house of representatives and the senate.

SECTION 33. IC 4-10-13-7, AS AMENDED BY P.L.90-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7. (a) The manner of publication of any of the reports as herein required shall be prescribed by the state budget committee, and the cost of publication shall be paid from funds appropriated to such state agencies and allocated by the state budget committee to such agencies for such purpose.

(b) A copy of such reports shall be presented to the governor, the department of local government finance, the budget committee, the commission on state tax and financing policy, the legislative council, and to any other state agency that may request a copy of such reports. **A report presented under this subsection to the legislative council must be in an electronic format under IC 5-14-6.**

SECTION 34. IC 4-10-21-8, AS ADDED BY P.L.192-2002(ss), SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8. Not earlier than December 1 and not later than the first session day of the general assembly after December 31 of each even-numbered year, the budget agency shall submit a report in ~~writing~~ **an electronic format under IC 5-14-6** to the executive director of the legislative services agency that includes at least the following information:

- (1) The state spending cap for each of the state fiscal years in the immediately following biennial budget period.
- (2) The supporting data and calculations necessary for a person to independently verify the manner in which the state spending caps described in subdivision (1) were determined.

SECTION 35. IC 4-12-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 11. (a) In addition to cooperating in the preparation of a recommended budget report and budget bill as herein provided, the chief functions of the budget committee shall be to serve as liaison between the legislative and executive, including the administrative branches of government, and to provide information to the general assembly with respect to the management of state fiscal affairs so that it may have a better insight into the budgetary and appropriation needs of the various state agencies. To perform such functions the budget committee may:

- (1) Select a chairman and such other officers as the members desire, and hold meetings at stated intervals, and on call of the chairman.
- (2) Make such policies and procedures concerning its organization and operation as are deemed advisable but IC 4-22-2 shall not apply thereto.
- (3) Have access to all files, information gathered and reports of the budget agency.
- (4) Inspect any state agency in order to obtain accurate

information concerning its budgetary needs and fiscal management, and examine all of its records and books of account.

(5) Subpoena witnesses and records, examine witnesses under oath, hold hearings, and exercise all the inherent powers of an interim legislative committee for study of budgetary affairs and fiscal management.

(6) Attend meetings of appropriate committees of the general assembly and furnish it with information and advice.

(7) Make such general or special reports to the budget agency and to the general assembly as are deemed advisable. **A report to the general assembly under this subdivision must be in an electronic format under IC 5-14-6.**

(b) The salary per diem of the legislative members of the budget committee is seventy dollars (~~\$70.00~~) **(\$70)** per day each for the time necessarily employed in the performance of their duties, and as provided by law all necessary traveling and hotel expenses, in addition to their legislative salary and legislative expense allowance, fixed by law as members of the general assembly. However, the salary per diem provided in this section is in lieu of any other per diem allowances available for the same day to legislative members of the budget committee in their capacity as members of other legislative committees or commissions.

SECTION 36. IC 4-12-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 12.

(a) Within forty-five (45) days following the adjournment of the regular session of the general assembly, the budget agency shall examine the acts of such general assembly and, with the aid of its own records and those of the budget committee, shall prepare a complete list of all appropriations made by law for the budget period beginning on July 1 following such regular session, or so made for such other period as is provided in the appropriation. While such list is being made by it the budget agency shall review and analyze the fiscal status and affairs of the state as affected by such appropriations. A written report thereof shall be made and signed by the budget director and shall be transmitted to the governor and the auditor of state. ~~and The report shall be mailed to each member of such~~ **transmitted in an electronic format under IC 5-14-6 to the** general assembly.

(b) Not later than the first day of June of each calendar year, the

budget agency shall prepare a list of all appropriations made by law for expenditure or encumbrance during the fiscal year beginning on the first day of July of that calendar year. At the same time, the budget agency shall establish the amount of a reserve from the general fund surplus which such agency estimates will be necessary and required to provide funds with which to pay the distribution to local school units required by law to be made so early in such fiscal year that revenues received in such year prior to the distribution will not be sufficient to cover such distribution. Not later than the first day of June following adjournment of such regular session of the general assembly the amounts of the appropriations for such fiscal year, and the amount of such reserve, shall be written and transmitted formally to the auditor of state who then shall establish the amounts of such appropriations, and the amount of such reserve, in the records of the auditor's office as fixed in such communication of the budget agency.

(c) Within sixty (60) days following the adjournment of any special session of the general assembly, or within such shorter period as the circumstances may require, the budget agency shall prepare for and transmit to the governor and members of the general assembly and the auditor of state, like information, list of sums appropriated, and if required, an estimate for a reserve from the general fund surplus for distribution to local school units, all as is done upon the adjournment of a regular session, pursuant to subsections (a) and (b) of this section to the extent the same are applicable. **The budget agency shall transmit any information under this subsection to the general assembly in an electronic format under IC 5-14-6.**

(d) The budget agency shall administer the allotment system provided in IC 4-13-2-18.

(e) The budget agency may transfer, assign and reassign any appropriation or appropriations, or parts of them, excepting those appropriations made to the Indiana state teacher's retirement fund established by IC 21-6.1, made for one specific use or purpose to another use or purpose of the agency of state to which the appropriation is made, but only when the uses and purposes to which the funds transferred, assigned and reassigned are uses and purposes the agency of state is by law required or authorized to perform. No transfer may be made as in this subsection authorized unless upon the request of and with the consent of the agency of state whose appropriations are

involved. Except to the extent otherwise specifically provided, every appropriation made and hereafter made and provided, for any specific use or purpose of an agency of the state is and shall be construed to be an appropriation to the agency, for all other necessary and lawful uses and purposes of the agency, subject to the aforesaid request and consent of the agency and concurrence of the budget agency.

(f) One or more emergency or contingency appropriations for each fiscal year or for the budget period may be made to the budget agency. Such appropriations shall be in amounts definitely fixed by law, or ascertainable or determinable according to a formula, or according to appropriate provisions of law taking into account the revenues and income of the agency of state. No transfer shall be made from any such appropriation to the regular appropriation of an agency of the state except upon an order of the budget agency made pursuant to the authority vested in it hereby or otherwise vested in it by law.

SECTION 37. IC 4-12-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 14.

(a) It is the legislative intent of this section that the state of Indiana participate in federal aid programs to the extent that it is in the state's interest to so participate. In order that the governor and the general assembly be enabled to make informed decisions about federal aid programs and that efficient and effective administration of these programs may take place, a federal aid management division is established within the state budget agency.

(b) There is created within the budget agency the federal aid management division. The division shall have the following powers and duties:

(1) To periodically inform the governor and the general assembly of pending and enacted federal aid legislation affecting the state.

(2) To evaluate new federal aid programs as they become operative, to periodically inform the governor and the general assembly of the existence of such programs, and of conditions which must be met by the state of Indiana for acceptance of such programs, to include any necessary enabling legislation.

(3) To review and approve all information as requested by the budget director, including but not limited to applications for federal funds and state plans, which shall be submitted to it by all state agencies, except in the case of universities or colleges

supported in whole or in part by state funds which are otherwise provided for in this clause, before submission of the information to the proper federal authority. Each regular session of the general assembly shall be furnished the names of any state agencies that fail to comply with the instructions of the budget agency and budget committee. For universities and colleges supported in whole or in part by state funds, the state budget agency shall review and either approve or disapprove any program application which exceeds one hundred thousand dollars (\$100,000) and all construction grant requests. Program applications which do not exceed one hundred thousand dollars (\$100,000) do not require review or approval by the state budget agency, but a copy of those applications shall be forwarded to the state budget agency for informational purposes only.

A program application which exceeds one hundred thousand dollars (\$100,000) may be submitted to the proper federal funding authority, before the application has been approved by the state budget agency, but the funds may not be spent until after the state budget agency has given its approval.

All construction grant requests must be reviewed and approved by the state budget agency before submission to the federal funding authority.

(4) To compile and analyze data received from state and local governments and agencies accepting federal aid, and periodically report on the same to the governor and the general assembly.

(5) To periodically report to the governor and the general assembly as to administrative or other problems caused by acceptance and operation of federal aid programs on both state and local levels, and to make recommendations for the alleviation of the same. **A report under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.**

(6) To maintain an information system on federal aid programs.

(7) To assist, at the discretion of the governor, in the coordination of broad federal programs administered by more than one (1) state agency.

(8) To serve at the governor's designation as the state clearing house under the United States office of management and budget circular A-95, revised.

(9) To prepare and administer an indirect cost allocation plan for the state of Indiana.

(10) To perform such tasks related to the above powers and duties as may be required by the governor.

(c) Staff members and other employees of the federal aid management division shall be appointed in the same manner prescribed by law for selection of other personnel of the budget agency. The governor may, at ~~his~~ **the governor's** discretion, appoint a chief of the federal aid management division.

SECTION 38. IC 4-12-4-14, AS ADDED BY P.L.21-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 14. The executive board shall prepare an annual financial report and an annual report concerning the executive board's activities under this chapter and promptly transmit the annual reports to the governor and, **in an electronic format under IC 5-14-6**, to the legislative council. The executive board shall make the annual reports available to the public upon request.

SECTION 39. IC 4-13-1.1-12, AS ADDED BY P.L.252-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 12. Not later than July 1 of each year, the department shall report **in an electronic format under IC 5-14-6** to the legislative council concerning the implementation of this chapter.

SECTION 40. IC 4-13-1.2-10, AS ADDED BY P.L.292-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10. (a) The director of the bureau shall prepare a report each year on the operations of the bureau.

(b) A copy of the report shall be provided to the following:

- (1) The governor.
- (2) The legislative council.
- (3) The department.
- (4) The department of correction.

A report provided under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 41. IC 4-13-1.4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10. (a) Before October 1 of each year, the department shall submit to the general assembly a ~~written~~ report **in an electronic format under**

IC 5-14-6 on the effectiveness of the state policies concerning the purchase of products made from recycled materials. In this report the department may recommend revisions to the purchasing policies.

(b) The report required under subsection (a) must include the name of each agency that was late in providing or failed to provide the department with the information required for the department to submit the report.

SECTION 42. IC 4-15-2.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5. ~~(Agency; Report)~~ The appointing authority of each agency or institution that operates under the provisions of this chapter shall submit to the legislative council ~~such any information which may be requested by the legislative council requests.~~ **To the extent possible, the information must be submitted in an electronic format under IC 5-14-6.**

SECTION 43. IC 4-22-2-21, AS AMENDED BY P.L.90-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. (a) If incorporation of the text in full would be cumbersome, expensive, or otherwise inexpedient, an agency may incorporate by reference into a rule part or all of any of the following matters:

- (1) A federal or state statute, rule, or regulation.
- (2) A code, manual, or other standard adopted by an agent of the United States, a state, or a nationally recognized organization or association.
- (3) A manual of the department of local government finance adopted in a rule described in IC 6-1.1-31-9.

(b) Each matter incorporated by reference under subsection (a) must be fully and exactly described.

(c) An agency may refer to a matter that is directly or indirectly referred to in a primary matter by fully and exactly describing the primary matter.

(d) Whenever an agency submits a rule to the attorney general, the governor, or the secretary of state under this chapter, the agency shall also submit a copy of the full text of each matter incorporated by reference under subsection (a) into the rule, other than the following:

- (1) An Indiana statute or rule.
- (2) A form or instructions for a form numbered by the

commission on public records under IC 5-15-5.1-6.

(3) The source of a statement that is quoted or paraphrased in full in the rule.

(4) Any matter that has been filed with the secretary of state before the date that the rule containing the incorporation is filed.

(5) Any matter referred to in subsection (c) as a matter that is directly or indirectly referred to in a primary matter.

(e) An agency may comply with subsection (d) by submitting a paper or an electronic copy of the full text of the matter incorporated by reference.

SECTION 44. IC 4-22-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) **Except as provided in subsection (f)**, the secretary of state shall retain a duplicate original copy of each rule that has been accepted for filing by the secretary of state (including documents filed with the secretary of state under IC 4-22-2-21). The secretary of state has official custody of an agency's adopted rules.

(b) Within one (1) business day after the date that the secretary of state accepts a rule for filing, the secretary of state shall distribute two (2) duplicate copies of the rule to the publisher in paper form. However, the secretary of state may distribute the rule without including the full text of any matter incorporated into the rule.

(c) When the copies are distributed under subsection (b), the secretary of state shall include a notice briefly describing the incorporated matters.

(d) Within ninety (90) days after the secretary of state accepts a rule for filing, the secretary of state may distribute duplicate originals of the rule, as follows:

(1) To the governor, one (1) copy.

(2) To the attorney general, one (1) copy.

(3) To the Indiana library and historical department, two (2) copies.

(4) After December 31, 1987, to the commission on public records, the number of copies needed by the commission for its archive program under IC 5-15-5.1.

(e) The secretary of state may distribute copies under subsection (d) in micrographic or electronic form. The micrographic copies shall be prepared under IC 4-5-1-2.

(f) If a final rule includes material that has been incorporated by reference under IC 4-22-2-21, the secretary of state may:

- (1) retain custody of the secretary of state's original copy of the material; or**
- (2) transfer the secretary of state's original copy of the material to the Indiana library and historical department when the secretary of state transfers two (2) copies of the duplicate original rule to the Indiana library and historical department under this section.**

SECTION 45. IC 4-23-2.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 16. Before October 1 of each year, the board shall prepare a report concerning the fund for distribution to the public and the general assembly. **A report distributed under this section to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 46. IC 4-23-5.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6.

(a) The board shall do the following:

- (1) Adopt procedures for the regulation of its affairs and the conduct of its business.
- (2) Meet at the offices of the department on call of the director, at least once each calendar quarter. The meetings shall be upon ten (10) days written notification, shall be open to the public, and shall have official minutes recorded for public scrutiny.
- (3) Report annually **in an electronic format under IC 5-14-6** to the legislative council the projects in which it has participated and is currently participating with a complete list of expenditures for those projects.
- (4) Annually prepare an administrative budget for review by the budget agency and the budget committee.
- (5) Keep proper records of accounts and make an annual report of its condition to the state board of accounts.

(b) The board may request that the department conduct assessments of the opportunities and constraints presented by all sources of energy. The board shall encourage the balanced use of all sources of energy with primary emphasis on:

- (1) the utilization of Indiana's high sulphur coal; and
- (2) the utilization of Indiana's agricultural and forest resources

and products for the production of alcohol fuel.

However, the board shall seek to avoid possible undesirable consequences of total reliance on a single source of energy.

(c) The board shall consider projects involving the creation of the following:

(1) Markets for products made from recycled materials.

(2) New products made from recycled materials.

(d) The board may promote, fund, and encourage programs facilitating the development and effective use of all sources of energy in Indiana.

SECTION 47. IC 4-23-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5. In furtherance of its purposes and duties, the commission shall have, and may exercise the following powers:

~~(a)~~ (1) To enter into contracts, within the limit of funds available therefor, with individuals, corporations, partnerships, limited liability companies, organizations and institutions for services furthering the objectives of the commission's programs.

~~(b)~~ (2) To accept gifts, contributions and bequests of funds from individuals, foundations, limited liability companies, corporations, and other organizations or institutions to be deposited in a special account separate and distinct from state and federal monies.

~~(c)~~ (3) To apply for, receive and disburse any funds available from the federal government in furtherance of the objectives of this chapter and to enter into any agreements which may be required by the federal government as a condition of obtaining such funds.

~~(d)~~ (4) To make and sign any agreements and to do and perform any acts that may be necessary to carry out its purposes and duties.

~~(e)~~ (5) To exercise eminent domain.

~~(f)~~ (6) To make an annual report to the governor and the legislative council concerning its activities and its recommendations for future activities. ~~and~~

~~(g)~~ (7) To hold, invest and dispense for purposes of the commission's work, funds received by gift, bequest or contribution to the commission, and to open and maintain

accounts in the commission's name for said monies with appropriate banks or trust companies. The commission may request the aid of the state board of accounts in establishing these accounts. Such accounts shall be subject to audit by the board of accounts.

An annual report made under subdivision (6) to the legislative council must be in electronic format under IC 5-14-6.

SECTION 48. IC 4-23-25-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7. The commission's duties include the following:

(1) Assessment of the needs of Indiana women and their families and promotion of the full participation of Indiana women in all aspects of society, including:

- (A) government;
- (B) the economy;
- (C) employment;
- (D) education;
- (E) social and family development;
- (F) health care;
- (G) the justice system; and
- (H) other aspects of society identified by the commission.

(2) Advocacy for the removal of legal and social barriers for women.

(3) Cooperation with organizations and governmental agencies to combat discrimination against women.

(4) Identification and recognition of contributions made by Indiana women to their community, state, and nation.

(5) Representation of Indiana's commitment to improving the quality of life for women and their families.

(6) Consultation with state agencies regarding the effect upon women and their families of agency policies, emerging policies, procedures, practices, laws, and administrative rules.

(7) Maintenance of information concerning:

- (A) organizations and governmental agencies serving women and their families; and
- (B) the names, resumes, and other professional and career information about women available to serve as agency appointees.

- (8) Evaluation of laws and governmental policies with respect to the needs of women and their families.
- (9) Monitoring of legislation and other legal developments in order to make recommendations that support the commission's purposes to the general assembly and the governor.
- (10) Action as a central clearinghouse for information concerning women and their families.
- (11) Gathering, studying, and disseminating information on women and their families through publications, public hearings, conferences, and other means.
- (12) Assessment of the needs of women and their families and the promotion of, development of, and assistance to other entities in providing programs and services to meet those needs.
- (13) Provision of publicity concerning the purposes and activities of the commission.
- (14) Service as a liaison between government and private interest groups concerned with serving the special needs of women.
- (15) Submission of an annual report on the commission's activities to the governor and to the legislative council. **An annual report submitted to the legislative council must be in an electronic format under IC 5-14-6.**

SECTION 49. IC 4-23-28-3, AS ADDED BY P.L.247-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) The commission shall do the following:

- (1) Identify and research issues affecting the Hispanic/Latino communities.
- (2) Promote cooperation and understanding between the Hispanic/Latino communities and other communities throughout Indiana.
- (3) Report to the legislative council **in an electronic format under IC 5-14-6** and **to** the governor concerning Hispanic/Latino issues, including the following:
 - (A) Conditions causing exclusion of Hispanics/Latinos from the larger Indiana community.
 - (B) Measures to stimulate job skill training and related workforce development.
 - (C) Measures to sustain cultural diversity while improving

race and ethnic relations.

(D) Public awareness of issues affecting the Hispanic/Latino communities.

(E) Measures that could facilitate easier access to state and local government services by Hispanics/Latinos.

(F) Challenges and opportunities arising out of the growth of the Hispanic/Latino population.

(b) The commission may study other topics:

(1) as assigned by the governor;

(2) as assigned by the legislative council; or

(3) as directed by the commission's chairperson.

SECTION 50. IC 4-30-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3.

(a) The commission shall submit written monthly and annual reports to the governor disclosing the total lottery revenues, prize disbursements, and other expenses of the commission during the preceding month and year. In the annual report the commission shall:

(1) describe the organizational structure of the commission;

(2) identify the divisions created by the director; and

(3) summarize the functions performed by each division.

(b) The commission shall submit the annual report to the governor, president pro tempore of the senate, the speaker of the house of representatives, the director of the budget agency, and, **in an electronic format under IC 5-14-6**, the executive director of the legislative services agency no later than February 1 of each year.

SECTION 51. IC 4-30-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. A copy of an audit performed under this chapter shall be submitted to the director, the commission members, the budget agency, the governor, and, **in an electronic format under IC 5-14-6**, the executive director of the legislative services agency.

SECTION 52. IC 4-31-3-8, AS AMENDED BY P.L.15-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8. The commission shall:

(1) prescribe the rules and conditions under which horse racing at a recognized meeting may be conducted;

(2) initiate safeguards as necessary to account for the amount of money wagered at each track or satellite facility in each wagering

pool;

(3) require all permit holders to provide a photographic or videotape recording, approved by the commission, of the entire running of all races conducted by the permit holder;

(4) make annual reports concerning its operations and recommendations to the governor and, **in an electronic format under IC 5-14-6, to the general assembly**; and

(5) carry out the provisions of IC 15-5-5.5, after considering recommendations received from the Indiana standardbred advisory board under IC 15-5-5.5.

SECTION 53. IC 4-34-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. Not later than one hundred twenty (120) days after the end of each state fiscal year, the budget agency shall provide the general assembly, members of the state budget committee, and the governor with a ~~written~~ report as to the use of the money in the fund during the previous state fiscal year. **A report provided under this section to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 54. IC 5-1-16-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 35. The authority shall submit an annual report of its activities for the preceding fiscal year to the governor and the ~~Indiana~~ general assembly. **An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.** Each member of the ~~Indiana~~ general assembly who requests a ~~written~~ copy of the report from the chairman of the authority shall be sent a ~~written~~ copy. Each report shall set forth a complete operating and financial statement for the authority during the fiscal year it covers.

SECTION 55. IC 5-2-6.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10. The division shall do the following:

- (1) Maintain an office and staff in Indianapolis.
- (2) Prescribe forms for processing applications for assistance.
- (3) Determine claims for assistance filed under this chapter and investigate or reopen cases as necessary.
- (4) Prepare a ~~written~~ report of the division's activities each year for the governor and the legislative council. **A report prepared under this subdivision for the legislative council must be in an**

electronic format under IC 5-14-6.

SECTION 56. IC 5-4-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 18.

(a) Except as provided in subsection (b), the following city, town, county, or township officers and employees shall file an individual surety bond:

- (1) City judges, controllers, clerks, and clerk-treasurers.
- (2) Town judges and clerk-treasurers.
- (3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners, assessors, and clerks.
- (4) Township trustees and assessors.
- (5) Those employees directed to file an individual bond by the fiscal body of a city, town, or county.

(b) The fiscal body of a city, town, county, or township may by ordinance authorize the purchase of a blanket bond or a crime insurance policy endorsed to include faithful performance to cover the faithful performance of all employees, commission members, and persons acting on behalf of the local government unit including those officers described in subsection (a).

(c) The fiscal bodies of the respective units shall fix the amount of the bond of city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law fund custodians, county treasurers, county sheriffs, circuit court clerks, township trustees, and conservancy district financial clerks as follows:

- (1) The amount must equal fifteen thousand dollars (\$15,000) for each one million dollars (\$1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2).
- (2) The amount may not be less than fifteen thousand dollars (\$15,000) nor more than three hundred thousand dollars (\$300,000).

County auditors shall file bonds in amounts of not less than fifteen thousand dollars (\$15,000), as fixed by the fiscal body of the county. The amount of the bond of any other person required to file an individual bond shall be fixed by the fiscal body of the unit at not less than eight thousand five hundred dollars (\$8,500).

(d) A controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file an individual

surety bond in an amount:

- (1) fixed by the board of directors of the solid waste management district; and
- (2) that is at least fifteen thousand dollars (\$15,000).

(e) Except as provided under subsection (d), a person who is required to file an individual surety bond by the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the board of directors.

(f) In 1982 and every four (4) years after that, the state examiner shall review the bond amounts fixed under this section and report **in an electronic format under IC 5-14-6** to the general assembly whether changes are necessary to ensure adequate and economical coverage.

(g) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section, in consultation with the commission on public records under IC 5-15-5.1-6.

SECTION 57. IC 5-11-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1.

(a) Whenever an examination is made under this article, a report of the examination shall be made. The report must include a list of findings and shall be signed and verified by the examiner making the examination. A finding that is critical of an examined entity must be based upon one (1) of the following:

- (1) Failure of the entity to observe a uniform compliance guideline established under IC 5-11-1-24(a).
- (2) Failure of the entity to comply with a specific law.

A report that includes a finding that is critical of an examined entity must designate the uniform compliance guideline or the specific law upon which the finding is based. The reports shall immediately be filed with the state examiner, and, after inspection of the report, the state examiner shall immediately file one (1) copy with the officer or person examined, one (1) copy with the auditing department of the municipality examined and reported upon, and one (1) copy **in an electronic format under IC 5-14-6** of the reports of examination of state agencies, instrumentalities of the state, and federal funds administered by the state with the legislative services agency, as staff to the general assembly. Upon filing, the report becomes a part of the public records of the office of the state examiner, of the office or the

person examined, of the auditing department of the municipality examined and reported upon, and of the legislative services agency, as staff to the general assembly. A report is open to public inspection at all reasonable times after it is filed. If an examination discloses malfeasance, misfeasance, or nonfeasance in office or of any officer or employee, a copy of the report, signed and verified, shall be placed by the state examiner with the attorney general. The attorney general shall diligently institute and prosecute civil proceedings against the delinquent officer, or upon the officer's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(b) Before an examination report is signed, verified, and filed as required by subsection (a), the officer or the chief executive officer of the state office, municipality, or entity examined must have an opportunity to review the report and to file with the state examiner a written response to that report. If a written response is filed, it becomes a part of the examination report that is signed, verified, and filed as required by subsection (a).

(c) Except as required by subsection (b), it is unlawful for any deputy examiner, field examiner, or private examiner, before an examination report is made public as provided by this section, to make any disclosure of the result of any examination of any public account, except to the state examiner or if directed to give publicity to the examination report by the state examiner or by any court. If an examination report shows or discloses the commission of a crime by any person, it is the duty of the state examiner to transmit and present the examination report to the grand jury of the county in which the crime was committed at its first session after the making of the examination report and at any subsequent sessions that may be required. The state examiner shall furnish to the grand jury all evidence at the state examiner's command necessary in the investigation and prosecution of the crime.

SECTION 58. IC 5-14-4-12, AS ADDED BY P.L.191-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 12. The counselor shall submit a report **in an electronic format under IC 5-14-6** not later than June 30 of each year to the legislative services agency concerning the

activities of the counselor for the previous year. The report must include the following information:

- (1) The total number of inquiries and complaints received.
- (2) The number of inquiries and complaints received each from the public, the media, and government agencies.
- (3) The number of inquiries and complaints that were resolved.
- (4) The number of complaints received about each of the following:
 - (A) State agencies.
 - (B) County agencies.
 - (C) City agencies.
 - (D) Town agencies.
 - (E) Township agencies.
 - (F) School corporations.
 - (G) Other local agencies.
- (5) The number of complaints received concerning each of the following:
 - (A) Public records.
 - (B) Public meetings.
- (6) The total number of written advisory opinions issued and pending.

SECTION 59. IC 5-16-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2.

(a) Each public agency shall require that every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works contain a provision that, if any steel products are to be used or supplied in the performance of the contract or subcontract, only steel products as defined by this chapter shall be used or supplied in the performance of the contract or any of the subcontracts unless the head of the public agency determines, in writing, that the cost of steel products is deemed to be unreasonable.

(b) The head of each public agency shall issue rules which provide that, for purposes of subsection (a) of this section, the bid or offered price of any steel products of domestic origin is not deemed to be unreasonable if it does not exceed the sum of:

- (1) the bid or offered price of like steel products of foreign origin (including any applicable duty); plus
- (2) a differential of fifteen percent (15%) of the bid or offered

price of the steel products of foreign origin.

However, the fifteen percent (15%) differential provided by clause (2) may be increased to twenty-five percent (25%), if the head of the public agency determines that use of steel products of domestic origin would benefit the local or state economy through improved job security and employment opportunity. Whenever the head of a public agency determines that the differential should be increased above fifteen percent (15%) for a particular project, ~~he~~ **the head of the agency** shall file a report with the governor and the legislative services agency detailing the reasons for such determination and the probable impact on the economy of the use of domestic steel in the project. **A report filed under this subsection with the legislative services agency must be in an electronic format under IC 5-14-6.**

SECTION 60. IC 5-20-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 18. ~~Annual Report and Annual Audit.~~ The authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the general assembly. ~~Each such~~ **An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.** The report shall set forth a complete operating and financial statement of the authority during such year, and a copy of such report shall be available to inspection by the public at the Indianapolis office of the authority. The authority shall cause an audit of its books and accounts to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available ~~moneys~~ **money** of the authority.

SECTION 61. IC 5-21-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 14. Before December 31 of each year, the commission shall issue a ~~written~~ report to the general assembly and the governor that summarizes the financial and operational performance of the commission during the preceding fiscal year and forecasts the commission's future financial and operational performance. The report issued to the general assembly **must be in an electronic format under IC 5-14-6** and shall be distributed to the president pro tempore of the senate, the minority leader of the senate, the speaker of the house of representatives, the minority leader of the house of representatives, and the executive

director of the legislative services agency.

SECTION 62. IC 6-1.1-11-8, AS AMENDED BY P.L.264-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8. (a) On or before August 1 of each year, the county auditor of each county shall forward to the department of local government finance the duplicate copies of all approved exemption applications.

(b) The department of local government finance shall review the approved applications forwarded under subsection (a). The department of local government finance may deny an exemption if the department determines that the property is not tax exempt under the laws of this state. However, before denying an exemption, the department of local government finance must give notice to the applicant, and the department must hold a hearing on the exemption application.

(c) With respect to the approved applications forwarded under subsection (a), the department shall annually report to the executive director of the legislative services agency:

- (1) the number forwarded;
- (2) the number subjected to field investigation by the department;
- and
- (3) the number denied by the department;

during the year ending on July 1 of the year. The department must submit the report under this subsection not later than August 1 of the year **and in an electronic format under IC 5-14-6.**

(d) The department shall adopt rules under IC 4-22-2 with respect to exempt real property to:

- (1) provide just valuations; and
 - (2) ensure that assessments are:
 - (A) made; and
 - (B) recorded;
- in accordance with law.

SECTION 63. IC 6-1.1-33.5-2, AS ADDED BY P.L.198-2001, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2. The division of data analysis shall do the following:

- (1) Compile an electronic data base that includes the following:
 - (A) The local government data base.
 - (B) Information on sales of real and personal property,

including information from sales disclosure forms filed under IC 6-1.1-5.5.

(C) Personal property assessed values and data entries on personal property return forms.

(D) Real property assessed values and data entries on real property assessment records.

(E) Information on property tax exemptions, deductions, and credits.

(F) Any other data relevant to the accurate determination of real property and personal property tax assessments.

(2) Make available to each county and township software that permits the transfer of the data described in subdivision (1) to the division in a uniform format through a secure connection over the Internet.

(3) Analyze the data compiled under this section for the purpose of performing the functions under section 3 of this chapter.

(4) Conduct continuing studies of personal and real property tax deductions, abatement, and exemptions used throughout Indiana. The division of data analysis shall, before May 1 of each even-numbered year, report on the studies at a meeting of the budget committee and submit a report on the studies to the legislative services agency for distribution to the members of the legislative council. **The report must be in an electronic format under IC 5-14-6.**

SECTION 64. IC 6-1.1-33.5-3, AS AMENDED BY P.L.256-2003, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. The division of data analysis shall:

(1) conduct continuing studies in the areas in which the department of local government finance operates;

(2) make periodic field surveys and audits of:

(A) tax rolls;

(B) plat books;

(C) building permits;

(D) real estate transfers; and

(E) other data that may be useful in checking property valuations or taxpayer returns;

(3) make test checks of property valuations to serve as the bases

for special reassessments under this article;

(4) conduct biennially a coefficient of dispersion study for each township and county in Indiana;

(5) conduct quadrennially a sales assessment ratio study for each township and county in Indiana;

(6) compute school assessment ratios under IC 6-1.1-34; and

(7) report annually to the executive director of the legislative services agency, in a ~~form prescribed by the legislative services agency~~, **an electronic format under IC 5-14-6**, the information obtained or determined under this section for use by the executive director and the general assembly, including:

(A) all information obtained by the division of data analysis from units of local government; and

(B) all information included in:

(i) the local government data base; and

(ii) any other data compiled by the division of data analysis.

SECTION 65. IC 6-3.1-13-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 23. On or before March 31 each year, the director shall submit a report to the board on the tax credit program under this chapter. The report shall include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar year, and the sum of the credits awarded under this chapter. A copy of the report shall be ~~delivered~~ **transmitted in an electronic format under IC 5-14-6** to the executive director of the legislative services agency for distribution to the members of the general assembly.

SECTION 66. IC 6-3.1-26-24, AS ADDED BY P.L.224-2003, SECTION 197, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 24. On or before March 31 each year, the director shall submit a report to the board on the tax credit program under this chapter. The report must include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar

year, and the sum of the credits awarded under this chapter. A copy of the report shall be ~~delivered~~ **transmitted in an electronic format under IC 5-14-6** to the executive director of the legislative services agency for distribution to the members of the general assembly.

SECTION 67. IC 6-8.1-9-14, AS ADDED BY P.L.178-2002, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 14. (a) The department shall establish, administer, and make available a centralized debt collection program for use by state agencies to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by state agencies. The department's collection facilities shall be available for use by other state agencies only when resources are available to the department.

(b) The commissioner shall prescribe the appropriate form and manner in which collection information is to be submitted to the department.

(c) The debt must be delinquent and not subject to litigation, claim, appeal, or review under the appropriate remedies of a state agency.

(d) The department has the authority to collect for the state or claimant agency (as defined in IC 6-8.1-9.5-1) delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or claimant agency that has a formal agreement with the department for central debt collection.

(e) The formal agreement must provide that the information provided to the department be sufficient to establish the obligation in court and to render the agreement as a legal judgment on behalf of the state. After transferring a file for collection to the department for collection, the claimant agency shall terminate all collection procedures and be available to provide assistance to the department. Upon receipt of a file for collection, the department shall comply with all applicable state and federal laws governing collection of the debt.

(f) The department may use a claimant agency's statutory authority to collect the claimant agency's delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to the claimant agency.

(g) The department's right to credit against taxes due may not be impaired by any right granted the department or other state agency under this section.

(h) The department of state revenue may charge the claimant agency

a fee not to exceed fifteen percent (15%) of any funds the department collects for a claimant agency. Notwithstanding any law concerning delinquent accounts, charges, fees, loans, taxes, or other indebtedness, the fifteen percent (15%) fee shall be added to the amount due to the state or claimant agency when the collection is made.

(i) Fees collected under subsection (h) shall be retained by the department after the debt is collected for the claimant agency and are appropriated to the department for use by the department in administering this section.

(j) The department shall transfer any funds collected from a debtor to the claimant agency within thirty (30) days after the end of the month in which the funds were collected.

(k) When a claimant agency requests collection by the department, the claimant agency shall provide the department with:

- (1) the full name;
- (2) the Social Security number or federal identification number, or both;
- (3) the last known mailing address; and
- (4) additional information that the department may request; concerning the debtor.

(l) The department shall establish a minimum amount that the department will attempt to collect for the claimant agency.

(m) The commissioner shall report, not later than March 1 for the previous calendar year, to the governor, the budget director, and the legislative council concerning the implementation of the centralized debt collection program, the number of debts, the dollar amounts of debts collected, and an estimate of the future costs and benefits that may be associated with the collection program. **A report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.**

SECTION 68. IC 6-8.1-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. The department shall submit a report to the governor and legislative council no later than October 1 of each year. **A report submitted under this section to the legislative council must be in an electronic format under IC 5-14-6.**

SECTION 69. IC 8-1-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 14.

(a) The chairman of the commission shall prepare an annual report and file it with the governor and the chairman of the legislative council before October 1 of each year. **A report filed under this subsection with the chairman of the legislative council must be in an electronic format under IC 5-14-6.** The chairman shall include in the report information for the fiscal year ending June 30 of the year in which the report is due.

(b) The annual report required under subsection (a) must include the following:

- (1) A statement of the commission's revenues by source and expenditures by purpose.
- (2) Statistics relevant to the workload and operations of the commission.
- (3) A description of the commission's goals, legal responsibilities, and accomplishments.
- (4) Comments on the state of the commission and the various kinds of utilities that it regulates.
- (5) Suggestions for new legislation and the rationale for any proposals.
- (6) Any other matters that the chairman wishes to bring to the attention of the governor and the general assembly.
- (7) Any comments or proposals that any member of the commission gives to the chairman for inclusion in the annual report.

SECTION 70. IC 8-1-2.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9.

(a) A regulatory flexibility committee established under IC 8-1-2.6-4 to monitor changes in the telephone industry shall also serve to monitor changes and competition in the energy utility industry.

(b) The commission shall ~~before August 15, 1997, and~~ before August 15 of each year ~~after 1997,~~ prepare for presentation to the regulatory flexibility committee an analysis of the effects of competition or changes in the energy utility industry on service and on the pricing of all energy utility services under the jurisdiction of the commission.

(c) In addition to reviewing the commission report prepared under subsection (b), the regulatory flexibility committee shall also issue a report and recommendations to the legislative council before

~~November 1, 1997, and before November 1 of each year after 1997~~ that are based on a review of the following issues:

- (1) The effects of competition or changes in the energy utility industry and the impact of the competition or changes on the residential rates.
- (2) The status of modernization of the energy utility facilities in Indiana and the incentives required to further enhance this infrastructure.
- (3) The effects on economic development of this modernization.
- (4) The traditional method of regulating energy utilities and the method's effectiveness.
- (5) The economic and social effectiveness of traditional energy utility service pricing.
- (6) The effects of legislation enacted by the United States Congress.
- (7) All other energy utility issues the committee considers appropriate; ~~provided~~, however, it is not the intent of this section to provide for the review of the statutes cited in section 11 of this chapter.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(d) This section:

- (1) does not give a party to a collective bargaining agreement any greater rights under the agreement than the party had before January 1, 1995;
- (2) does not give the committee the authority to order a party to a collective bargaining agreement to cancel, terminate, amend or otherwise modify the collective bargaining agreement; and
- (3) may not be implemented by the committee in a way that would give a party to a collective bargaining agreement any greater rights under the agreement than the party had before January 1, 1995.

(e) The regulatory flexibility committee shall meet on the call of the co-chairs to study energy utility issues described in subsection (c). The committee shall, with the approval of the commission, retain independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the

consultants shall be paid with funds from the public utility fees assessed under IC 8-1-6.

(f) The legislative services agency shall provide staff support to the committee.

(g) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative members of interim study committees established by the legislative council.

SECTION 71. IC 8-1-2.6-4, AS AMENDED BY P.L.224-2003, SECTION 277, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4. (a) A regulatory flexibility committee is established to monitor competition in the telephone industry.

(b) The committee is composed of the members of a house standing committee selected by the speaker of the house of representatives and a senate standing committee selected by the president pro tempore of the senate. In selecting standing committees under this subsection, the speaker and president pro tempore shall determine which standing committee of the house of representatives and the senate, respectively, has subject matter jurisdiction that most closely relates to the electricity, gas, energy policy, and telecommunications jurisdiction of the regulatory flexibility committee. The chairpersons of the standing committees selected under this subsection shall co-chair the regulatory flexibility committee.

(c) The commission shall, by July 1 of each year, prepare for presentation to the regulatory flexibility committee an analysis of the effects of competition on universal service and on pricing of all telephone services under the jurisdiction of the commission.

(d) In addition to reviewing the commission report prepared under subsection (c), the regulatory flexibility committee shall also issue a report and recommendations to the legislative council by November 1 of each year that is based on a review of the following issues:

- (1) The effects of competition in the telephone industry and impact of competition on available subsidies used to maintain universal service.
- (2) The status of modernization of the public telephone network in Indiana and the incentives required to further enhance this infrastructure.

- (3) The effects on economic development and educational opportunities of this modernization.
- (4) The current method of regulating telephone companies and the method's effectiveness.
- (5) The economic and social effectiveness of current telephone service pricing.
- (6) All other telecommunications issues the committee deems appropriate.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(e) The regulatory flexibility committee shall meet on the call of the co-chairpersons to study telecommunications issues described in subsection (d). The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission.

SECTION 72. IC 8-1-2.8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 21. The InTRAC shall do the following:

- (1) Establish, implement, and administer, in whole or in part, a statewide dual party relay service system. Any contract for the supply or operation of a dual party relay service system or for the supply of telecommunications devices shall be provided through a competitively selected vendor.
- (2) Determine the terms and manner in which each LEC shall pay to the InTRAC the surcharge required under this chapter.
- (3) Annually review the costs it incurred during prior periods, make reasonable projections of anticipated funding requirements for future periods, and file a report of the results of the review and projections with the commission by May 1 of each year.
- (4) Annually employ an independent accounting firm to prepare audited financial statements for the end of each fiscal year of the InTRAC to consist of:
 - (A) a balance sheet;
 - (B) a statement of income; and
 - (C) a statement of cash flow;

and file a copy of these financial statements with the commission

before May 2 of each year.

(5) Enter into contracts with any telephone company authorized by the commission to provide services within Indiana to provide dual party relay services for the telephone company, upon request by the telephone company. However, the InTRAC:

(A) shall require reasonable compensation from the telephone company for the provision of these services;

(B) is not required to contract with its members; and

(C) shall provide dual party relay services to InTRAC members for no consideration other than the payment to the InTRAC of the surcharges collected by the member under this chapter.

(6) Send to each of its members and file with the governor and the general assembly before May 2 of each year an annual report that contains the following:

(A) A description of the InTRAC's activities for the previous fiscal year.

(B) A description and evaluation of the dual party relay services that the InTRAC provides.

(C) A report of the volume of services the InTRAC provided during the previous fiscal year.

(D) A copy of the financial statements that subdivision (4) requires.

A report filed under this subdivision with the general assembly must be in an electronic format under IC 5-14-6.

SECTION 73. IC 8-14.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2.

(a) A lease entered into under this section must include the following:

(1) A statement that the term of the lease is for a period coextensive with the biennium used for state budgetary and appropriation purposes with a fractional period when the lease begins, if necessary.

(2) A statement that the term of the lease is extended from biennium to biennium, with the extensions not to exceed a lease term of twenty-five (25) years, unless either the authority or the department gives notice of nonextension at least six (6) months before the end of a biennium, in which event the lease expires at the end of the biennium in which the notice is given.

(3) A provision plainly stating that the lease does not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the department solely from biennial appropriations, for the actual use or availability for use of projects provided by the authority, with payment commencing no earlier than the time the use or availability commences.

(4) Provisions requiring the department to pay rent at times and in amounts sufficient to pay in full:

(A) the debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any project, including any required additions to reserves for the bonds or notes maintained by the authority; and

(B) additional rent as provided by the lease;

subject to appropriation of money to pay lease rentals.

(5) Provisions requiring the department to operate and maintain the project or projects during the term of the lease.

(6) A provision in each master lease for two (2) or more projects requiring that each project added to the master lease shall be covered by a supplemental lease describing the particular project, stating the additional rental payable and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the department consider appropriate.

(c) The department shall request an appropriation for payment of lease rentals on any lease entered into under this section in writing at a time sufficiently in advance of the date for payment of the lease rentals so that an appropriation may be made in the normal state budgetary process.

(d) If the department fails at any time to pay to the authority when due any lease rentals on any lease under this section, the chairman of the authority shall immediately report the unpaid amount in writing to **the general assembly and the governor and in an electronic format under IC 5-14-6 to the general assembly.**

SECTION 74. IC 8-22-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2.

(a) The airport authority may sue and be sued, and shall adopt an official seal.

(b) The airport authority may appoint and remove or discharge personnel as may be necessary for the performance of the airport's functions irrespective of the civil service, personnel, or other merit system laws of either of the party states.

(c) The airport authority shall elect annually, from its membership, a chairman, a vice chairman, and a treasurer.

(d) The airport authority may establish and maintain or participate in programs of employee benefits as may be appropriate to afford employees of the airport authority terms and conditions of employment similar to those enjoyed by the employees of each of the party states.

(e) The airport authority may borrow, accept, or contract for the services of personnel from a state, the United States, or a subdivision or agency of either, from an interstate agency, or from any other institution or person.

(f) The airport authority may accept for its purposes and functions donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from a state, the United States, or a subdivision or agency of either, from an interstate agency, or from any other institution or person. The authority may receive, utilize and dispose of the property.

(g) The airport authority may establish and maintain facilities that may be necessary for the transaction of its business. The airport authority may acquire, hold, and convey real and personal property and any interest in it, and may enter into contracts for improvements upon real estate appurtenant to the airport, including farming, extracting minerals, subleasing, subdividing, promoting and developing of real estate that aids and encourages the development and service of the airport. The airport authority may engage contractors to provide airport services and shall carefully observe all appropriate federal or state regulations in the operation of the air facility.

(h) The airport authority may adopt official rules and regulations for the conduct of its business and may amend or rescind them when necessary.

(i) The airport authority shall annually make a report to the governor

of each party state concerning the activities of the airport authority for the preceding year, embodying in the report recommendations that have been adopted by the airport authority. The copies of the report shall be submitted to the legislature or general assembly of each of the party states at any regular session. **A copy submitted to the general assembly must be in an electronic format under IC 5-14-6.** The airport authority may issue additional reports that are necessary.

SECTION 75. IC 8-23-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8.

(a) The department may install vending machines for items including food, drink, candy, and first aid kits in rest areas on the interstate highway system.

(b) The department shall report **in an electronic format under IC 5-14-6** to the general assembly through the legislative council the results of the installation.

(c) Installation of the vending machines must conform with federal and Indiana law.

SECTION 76. IC 9-16-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2. Each audit required by section 1 of this chapter must be:

- (1) completed not more than ninety (90) days after commencement of the audit; and
- (2) filed with the legislative services agency **in an electronic format under IC 5-14-6** not more than thirty (30) days after completion of the audit.

SECTION 77. IC 9-20-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. Before January 2 of each odd-numbered year, the Civil Engineering School at Purdue University shall report **in an electronic format under IC 5-14-6** to the general assembly the results of a continuing study of the condition of Indiana's roads and streets as the condition may be affected by trucks and tractor-semitrailer combinations.

SECTION 78. IC 9-27-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5. The director of the state department of toxicology, in conjunction with the office of traffic safety, shall prepare a ~~written~~ report of the annual statistical findings and related recommendations for presentation upon request of the legislative council. **The report must be in an electronic**

format under IC 5-14-6.

SECTION 79. IC 10-13-3-38, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 38. (a) A law enforcement agency shall collect information concerning bias crimes.

(b) At least two (2) times each year, a law enforcement agency shall submit information collected under subsection (a) to the Indiana central repository for criminal history information. Information shall be reported in the manner and form prescribed by the department.

(c) At least one (1) time each year, the Indiana central repository for criminal history information shall submit a report that includes a compilation of information obtained under subsection (b) to each law enforcement agency and to the legislative council. A report submitted to a law enforcement agency and the legislative council under this subsection may not contain the name of a person who:

- (1) committed or allegedly committed a bias crime; or
- (2) was the victim or the alleged victim of a bias crime.

A report submitted to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(d) Except as provided in subsection (e), information collected, submitted, and reported under this section must be consistent with guidelines established for the acquisition, preservation, and exchange of identification records and information by:

- (1) the Attorney General of the United States; or
- (2) the Federal Bureau of Investigation;

under 28 U.S.C. 534 and the Hate Crime Statistics Act, as amended (28 U.S.C. 534 note).

(e) Information submitted under subsection (b) and reports issued under subsection (c) shall, in conformity with guidelines prescribed by the department:

- (1) be separated in reports on the basis of whether it is an alleged crime, a charged crime, or a crime for which a conviction has been obtained; and
- (2) be divided in reports on the basis of whether, in the opinion of the reporting individual and the data collectors, bias was the primary motivation for the crime or only incidental to the crime.

SECTION 80. IC 10-14-8-4, AS ADDED BY P.L.2-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003 (RETROACTIVE)]: Sec. 4. (a) The director shall consult with:

- (1) the state health commissioner of the state department of health;
- (2) the commissioner of the Indiana department of transportation;
- (3) the commissioner of the department of environmental management;
- (4) the director of the department of natural resources;
- (5) the superintendent of the state police department;
- (6) representatives of the:
 - (A) United States Nuclear Regulatory Commission;
 - (B) Federal Emergency Management Agency;
 - (C) United States Department of Energy; and
 - (D) United States Department of Transportation; and
- (7) a representative of a local emergency management agency designated by the director;

to prepare a plan for emergency response to a high level radioactive waste transportation accident in Indiana. The plan must include provisions for evacuation, containment, and cleanup and must designate the role of each state or local government agency involved in the emergency response plan.

(b) The director shall report to the general assembly each year on the:

- (1) status of the plan prepared under subsection (a); and
- (2) ability of the state to respond adequately to a high level radioactive waste transportation accident in Indiana.

A report under this subsection to the general assembly must be in an electronic format under IC 5-14-6.

SECTION 81. IC 10-15-3-11, AS ADDED BY P.L.2-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 11. Before October 1 of each year, the foundation shall prepare an annual report concerning the foundation's activities for the prior year for the public and the general assembly. **A report prepared under this section for the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 82. IC 10-17-8-6, AS ADDED BY P.L.2-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6. (a) The department, in

consultation and cooperation with a department certified medical toxicologist and herbicide specialist, shall compile information submitted under this chapter into a report. The report must contain an evaluation of the information and shall be distributed annually to the legislative services agency, the United States Department of Veterans Affairs, the state department of health, and other veterans groups. The report must also contain:

- (1) current research findings on the exposure to chemical defoliants or herbicides or similar agents, including agent orange; and
- (2) statistical information compiled from reports submitted by physicians or hospitals.

(b) The department shall forward to the United States Department of Veterans Affairs a copy of all forms submitted to the department under section 5 of this chapter.

(c) A report distributed under subsection (a) to the legislative services agency must be in an electronic format under IC 5-14-6.

SECTION 83. IC 11-10-3-2.5, AS ADDED BY P.L.293-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2.5. (a) As used in this section, "confirmatory test" means a laboratory test or a series of tests approved by the state department of health and used in conjunction with a screening test to confirm or refute the results of the screening test for the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV).

(b) As used in this section, "screening test" means a laboratory screening test or a series of tests approved by the state department of health to determine the possible presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV).

(c) For an individual who is committed to the department after June 30, 2001, the examination required under section 2(a) of this chapter must include the following:

- (1) A blood test for hepatitis C.
- (2) A screening test for the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV).
- (d) If the screening test required under subsection (c)(2) indicates

the presence of antibodies to the human immunodeficiency virus (HIV), the department shall administer a confirmatory test to the individual.

(e) The department may require an individual who:

- (1) was committed to the department before July 1, 2001; and
- (2) is in the custody of the department after June 30, 2001;

to undergo the tests required by subsection (c) and, if applicable, subsection (d).

(f) Except as otherwise provided by state or federal law, the results of a test administered under this section are confidential.

(g) The department shall, beginning September 1, 2002, file an annual report **in an electronic format under IC 5-14-6** with the executive director of the legislative services agency containing statistical information on the number of individuals tested and the number of positive test results determined under this section.

SECTION 84. IC 11-13-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9.

(a) The judicial conference of Indiana shall:

- (1) keep informed of the work of all probation departments;
- (2) compile and publish statistical and other information that may be of value to the probation service;
- (3) inform courts and probation departments of legislation concerning probation and of other developments in probation; and
- (4) submit to the general assembly before January 15 of each year a report **in an electronic format under IC 5-14-6** compiling the statistics provided to the judicial conference by probation departments under section 4(b) of this chapter.

(b) The conference may:

- (1) visit and inspect any probation department and confer with probation officers and judges administering probation; and
- (2) require probation departments to submit periodic reports of their work on forms furnished by the conference.

SECTION 85. IC 11-13-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4.

The department shall, not later than January 1 of each year, submit an annual report to the general assembly on the operation of the transitional programs established under this chapter. The report **must be in an electronic format under IC 5-14-6** and must include

information concerning the following:

- (1) The number of offenders who participated in the program.
- (2) The types of programs in which the offenders participated.

SECTION 86. IC 12-8-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 13.

(a) Subject to the appropriation limits established by the state's biennial budget for the office of the secretary and its divisions, and after assistance, including assistance under AFDC (IC 12-14), medical assistance (IC 12-15), and food stamps (7 U.S.C. 2016(i)), is distributed to persons eligible to receive assistance, the secretary may adopt rules under IC 4-22-2 to offer programs on a pilot or statewide basis to encourage recipients of assistance under IC 12-14 to become self-sufficient and discontinue dependence on public assistance programs. Programs offered under this subsection may do the following:

- (1) Develop welfare-to-work programs.
- (2) Develop home child care training programs that will enable recipients to work by providing child care for other recipients.
- (3) Provide case management and supportive services.
- (4) Develop a system to provide for public service opportunities for recipients.
- (5) Provide plans to implement the personal responsibility agreement under IC 12-14-2-21.
- (6) Develop programs to implement the school attendance requirement under IC 12-14-2-17.
- (7) Provide funds for county planning council activities under IC 12-14-22-13.
- (8) Provide that a recipient may earn up to the federal income poverty level (as defined in IC 12-15-2-1) before assistance under this title is reduced or eliminated.
- (9) Provide for child care assistance, with the recipient paying fifty percent (50%) of the local market rate as established under 45 CFR 256 for child care.
- (10) Provide for medical care assistance under IC 12-15, if the recipient's employer does not offer the recipient health care coverage.

(b) If the secretary offers a program described in subsection (a), the secretary shall annually report the results and other relevant data

regarding the program to the legislative council **in an electronic format under IC 5-14-6.**

SECTION 87. IC 12-8-10-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10. ~~Within~~ **Not more than** thirty (30) days after the completion of each audit required by this chapter, the group shall submit a copy of the audit to each of the following:

- (1) The state board of accounts.
- (2) Each state agency that is a party to a contract covered in the audit.
- (3) The legislative council, upon request of the legislative council or when required by federal law. **A report submitted under this subdivision must be in electronic format under IC 5-14-6.**
- (4) The appropriate federal agency, when required by federal law.

SECTION 88. IC 12-8-14-4, AS ADDED BY P.L.272-1999, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4. The office of the secretary shall submit an annual report on the family support program to the governor and to the general assembly before July 1 of each year. **A report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 89. IC 12-10-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 30. The division shall report to the general assembly before February 2 of each year concerning the division's activities under this chapter during the preceding calendar year. The report must include the recommendations of the division relating to the need for continuing care of endangered adults under this chapter **and must be in an electronic format under IC 5-14-6.**

SECTION 90. IC 12-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5. (a) The division may award grants to be used for Alzheimer's disease or related senile dementia activities to an entity that does any of the following:

- (1) Operates a geriatric assessment unit.
- (2) Provides or has the capability of providing diagnostic services or treatment for individuals with symptoms of Alzheimer's disease or a related senile dementia.

(3) Provides counseling to families of individuals with Alzheimer's disease or a related senile dementia.

(4) Conducts research or training in geriatrics.

(b) The division shall submit to the general assembly before November 1 of each year a report on services provided and research conducted with grant money. The report **must be in an electronic format under IC 5-14-6 and** must include the following:

(1) A description of any progress made by an entity awarded a grant under this section in discovering the cause of and a cure for Alzheimer's disease and related senile dementia and in improving the quality of care of individuals who have Alzheimer's disease or a related senile dementia.

(2) The characteristics and number of persons served by programs established with grants provided under this section.

(3) The costs of programs established with grants provided under this section.

(4) A general evaluation of the programs established with grants provided under this section.

SECTION 91. IC 12-10-10-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 11.

(a) Before October 1 of each year, the division, in conjunction with the office of the secretary, shall prepare a report for review by the board and the general assembly. The report must include the following information regarding clients and services of the community and home options to institutional care for the elderly and disabled program and other long term care home and community based programs:

(1) The amount and source of all local, state, and federal dollars spent.

(2) The use of the community and home options to institutional care for the elderly and disabled program in supplementing the funding of services provided to clients through other programs.

(3) The number and types of participating providers.

(4) An examination of:

(A) demographic characteristics; and

(B) impairment and medical characteristics.

(5) A comparison of costs for all publicly funded long term care programs.

(6) Client care outcomes.

(7) A determination of the estimated number of applicants for services from the community and home options to institutional care for the elderly and disabled program who have:

(A) one (1) assessed activity of daily living that cannot be performed;

(B) two (2) assessed activities of daily living that cannot be performed; and

(C) three (3) or more assessed activities of daily living that cannot be performed;

and the estimated effect of the results under clauses (A), (B), and (C) on program funding, program savings, client access, client care outcomes, and comparative costs with other long term care programs.

(b) After receiving the report described in subsection (a), the board may do the following:

(1) Review and comment on the report.

(2) Solicit public comments and testimony on the report.

(3) Incorporate its own opinions into the report.

(c) The board shall submit the report **in an electronic format under IC 5-14-6** along with any additions made under subsection (b) to the general assembly after November 15 and before December 31 each year.

(d) Funding for the report must come entirely from:

(1) funds already available for similar purposes;

(2) discretionary funds available to the division or the office of the secretary;

(3) reversion funds; and

(4) private funds and grants.

SECTION 92. IC 12-10-11.5-6, AS ADDED BY P.L.274-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6. (a) The office of the secretary of family and social services shall annually determine any state savings generated by home and community based services under this chapter by reducing the use of institutional care.

(b) The secretary shall annually report to the governor, the budget agency, the budget committee, the select commission on Medicaid oversight, and the executive director of the legislative services agency the savings determined under subsection (a). **A report under this**

subsection to the executive director of the legislative services agency must be in an electronic format under IC 5-14-6.

(c) Savings determined under subsection (a) may be used to fund the state's share of additional home and community based Medicaid waiver slots.

SECTION 93. IC 12-10-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 19.

(a) The office shall prepare a report each year on the operations of the office.

(b) A copy of the report shall be provided to the following:

- (1) The governor.
- (2) The general assembly. **The report must be in an electronic format under IC 5-14-6.**
- (3) The division.
- (4) The federal Commissioner on Aging.
- (5) Each area agency on aging.
- (6) The state department of health.

SECTION 94. IC 12-11-8-3, AS AMENDED BY P.L.215-2001, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) The institute for autism in cooperation with the appropriate state agencies shall do the following:

- (1) Provide informational services about autism.
- (2) Provide an information system for services provided to individuals with autism and their families by federal, state, local, and private agencies.
- (3) Develop a data base from information received by the division, the division of mental health and addiction, the department of education, and the state department of health relative to the services provided to autistic individuals and their families.
- (4) Offer training and technical assistance to providers of services and families of individuals with autism.
- (5) Research methods for assessing, planning, implementing, and evaluating programs for individuals with autism and their families.
- (6) Develop model curricula and resource materials for providers of services and families of individuals with autism.

(7) Conduct one (1) time every three (3) years a statewide needs assessment study designed to determine the following:

(A) The status of services provided to autistic individuals and their families.

(B) The need for additional or alternative services for autistic individuals and their families.

(b) The institute for autism shall deliver to the general assembly **in an electronic format under IC 5-14-6** the results of the needs assessment study required by subsection (a)(7) before December 1 of each year in which the study is conducted.

SECTION 95. IC 12-11-13-13, AS ADDED BY P.L.272-1999, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 13. (a) The ombudsman shall prepare a report each year on the operations of the program.

(b) A copy of the report required under subsection (a) shall be provided to the following:

(1) The governor.

(2) The legislative council. **The report must be in an electronic format under IC 5-14-6.**

(3) The division.

(4) The members of the Indiana commission on mental retardation and developmental disabilities established by P.L.78-1994.

SECTION 96. IC 12-12-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10.

(a) Before December 1 of each year, the bureau shall submit to the legislative services agency a report **in an electronic format under IC 5-14-6** detailing the number of blind vendors placed by the bureau in public and private buildings under this chapter.

(b) The legislative services agency shall submit copies of the report to the chairs of the health committees of the senate and the house of representatives.

SECTION 97. IC 12-13-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10.

The commission shall issue an annual report stating the findings, conclusions, and recommendations of the commission. The commission shall submit the report to the governor and the legislative council. **A report submitted under this section to the legislative council must be in an electronic format under IC 5-14-6.**

SECTION 98. IC 12-13-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. The division of family and children shall prepare a report **in an electronic format under IC 5-14-6** for the general assembly regarding the division's management of child abuse and neglect cases.

SECTION 99. IC 12-13-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. The division shall submit the report **in an electronic format under IC 5-14-6** to the general assembly not later than November 1 of each year.

SECTION 100. IC 12-13-14.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. One (1) time every six (6) months, the division shall submit a report to the budget committee and to the general assembly that provides data and statistical information regarding caseloads for each county for child protection caseworkers, child welfare caseworkers and other caseworkers under the jurisdiction of the division of family and children, department of family and social services during the preceding six (6) months. **A report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 101. IC 12-14-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 23. (a) This section applies only to a person's eligibility for assistance under section 5.1 of this chapter.

(b) As used in this section, "school" means a program resulting in high school graduation.

(c) Due to extraordinary circumstances, a person who is the parent of a dependent child, an essential person, or a dependent child may apply, in a manner prescribed by the division, for an exemption from the requirements of this chapter if the person can document that the person has complied with the personal responsibility agreement under section 21 of this chapter and the person demonstrates any of the following:

- (1) The person has a substantial physical or mental disability that prevents the person from obtaining or participating in gainful employment.
- (2) The person is a minor parent who is in school full time and who has a dependent child.

- (3) The person is a minor parent who is enrolled full time in an educational program culminating in a high school equivalency certificate and who has a dependent child.

A person seeking an exemption under this section must show documentation to the division to substantiate the person's claim for an exemption under subdivision (1), (2), or (3).

(d) After receiving an application for exemption from a parent, an essential person, or a dependent child under subsection (c), the division shall investigate and determine if the parent, essential person, or dependent child qualifies for an exemption from this chapter. The director shall make a final determination regarding:

- (1) whether to grant an exemption;
- (2) the length of an exemption, if granted, subject to subsection (f); and
- (3) the extent of an exemption, if granted.

(e) If the director determines that a parent, an essential person, or a dependent child qualifies for an exemption under this chapter, the parent, essential person, or dependent child is entitled to receive one hundred percent (100%) of the payments that the parent, essential person, or dependent child is entitled to receive under section 5 of this chapter, subject to any ratable reduction.

(f) An exemption granted under this section may not exceed one (1) year, but may be renewed.

(g) The division shall send a report each quarter to the legislative council and the budget committee detailing the number and type of exemptions granted under this section. **A report sent under this subsection to the legislative council must be in an electronic format under IC 5-14-6.**

(h) The division may adopt rules under IC 4-22-2 to carry out this section.

SECTION 102. IC 12-14-11-7, AS AMENDED BY P.L.159-1999, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7. (a) The criteria for determining the amount of assistance may include the following:

- (1) The age of an applicant for assistance.
- (2) Whether the applicant is employed.
- (3) Household income during the past one hundred eighty (180) days.

- (4) Household size.
- (5) Type of fuel used for primary heating or cooling.
- (6) The need for assistance.
- (7) Residency.
- (8) The age and energy efficiency of the applicant's dwelling and heating plant.

(b) Unless prohibited by federal law, the criteria for determining the amount of assistance must include a consideration of an applicant's housing status. The division shall give weight to an applicant's housing status in the following order, from greatest weight to least weight:

- (1) An applicant who resides in nonsubsidized housing.
- (2) An applicant who resides in subsidized housing in which home energy costs are not included in the rent.
- (3) An applicant who resides in subsidized housing in which home energy costs are included in the rent.

(c) The division shall annually:

- (1) review the formula used by the division to determine the amount of assistance awarded under this chapter; and
- (2) prepare a report that includes:

(A) the following information for the most recent federal fiscal year:

- (i) The number of applicants for assistance under this chapter.
- (ii) The number of assistance awards made under this chapter.
- (iii) The average amount of assistance awarded under this chapter for all recipients and by category of housing status; and

(B) a statement of:

- (i) the formula that the division is currently using to determine the amount of assistance under this chapter; and
- (ii) the division's intention regarding any change in the formula described in item (i).

(d) The division shall file the report required under subsection (c)(2) **in an electronic format under IC 5-14-6** with the legislative council before April 1 ~~beginning in 2000; each year.~~

SECTION 103. IC 12-15-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 14.

The office shall annually submit a report to the legislative council that covers all aspects of the office's evaluation, including the following:

- (1) The number and demographic characteristics of the individuals receiving Medicaid during the preceding fiscal year.
- (2) The number of births during the preceding fiscal year.
- (3) The number of infant deaths during the preceding fiscal year.
- (4) The improvement in the number of low birth weight babies for the preceding fiscal year.
- (5) The total cost of providing Medicaid during the preceding fiscal year.
- (6) The total cost savings during the preceding fiscal year that are realized in other state funded programs because of providing Medicaid.

The report must be in an electronic format under IC 5-14-6.

SECTION 104. IC 12-15-35-28, AS AMENDED BY P.L.184-2003, SECTION 7, AND AS AMENDED BY P.L.193-2003, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 28. (a) The board has the following duties:

- (1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any office approval that is required by the federal Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations.
- (2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.
- (3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.
- (4) The development, selection, application, and assessment of

interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.

(5) The publication of an annual report that must be subject to public comment before issuance to the federal Department of Health and Human Services and to the Indiana legislative council by December 1 of each year. **The report issued to the legislative council must be in an electronic format under IC 5-14-6.**

(6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies, including the following:

- (A) The Indiana board of pharmacy.
- (B) The medical licensing board of Indiana.
- (C) The SURS staff.

(7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.

(8) The publication and dissemination of educational information to physicians and pharmacists regarding the board and the DUR program, including information on the following:

- (A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.
- (B) Potential or actual severe or adverse reactions to drugs.
- (C) Therapeutic appropriateness.
- (D) Overutilization or underutilization.
- (E) Appropriate use of generic drugs.
- (F) Therapeutic duplication.
- (G) Drug-disease contraindications.
- (H) Drug-drug interactions.
- (I) Incorrect drug dosage and duration of drug treatment.
- (J) Drug allergy interactions.
- (K) Clinical abuse and misuse.

(9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual physicians, pharmacists, or recipients.

(10) The implementation of additional drug utilization review

with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 483.60.

(11) The research, development, and approval of a preferred drug list for:

- (A) Medicaid's fee for service program;
- (B) Medicaid's primary care case management program; and
- (C) the primary care case management component of the children's health insurance program under IC 12-17.6;

in consultation with the therapeutics committee.

(12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.

(13) The preparation and submission of a report concerning the preferred drug list at least two (2) times per year to the select joint commission on Medicaid oversight established by IC 2-5-26-3.

(14) The collection of data reflecting prescribing patterns related to treatment of children diagnosed with attention deficit disorder or attention deficit hyperactivity disorder.

(15) Advising the Indiana comprehensive health insurance association established by IC 27-8-10-2.1 concerning implementation of chronic disease management and pharmaceutical management programs under IC 27-8-10-3.5.

(b) The board shall use the clinical expertise of the therapeutics committee in developing a preferred drug list. The board shall also consider expert testimony in the development of a preferred drug list.

(c) In researching and developing a preferred drug list under subsection (a)(11), the board shall do the following:

- (1) Use literature abstracting technology.
- (2) Use commonly accepted guidance principles of disease management.
- (3) Develop therapeutic classifications for the preferred drug list.
- (4) Give primary consideration to the clinical efficacy or appropriateness of a particular drug in treating a specific medical condition.
- (5) Include in any cost effectiveness considerations the cost implications of other components of the state's Medicaid program and other state funded programs.

(d) Prior authorization is required for coverage under a program described in subsection (a)(11) of a drug that is not included on the preferred drug list.

(e) The board shall determine whether to include a single source covered outpatient drug that is newly approved by the federal Food and Drug Administration on the preferred drug list not later than sixty (60) days after the date *on which the manufacturer notifies the board in writing* of the drug's approval. However, if the board determines that there is inadequate information about the drug available to the board to make a determination, the board may have an additional sixty (60) days to make a determination from the date that the board receives adequate information to perform the board's review. Prior authorization may not be automatically required for a single source drug that is newly approved by the federal Food and Drug Administration, and that is:

(1) in a therapeutic classification:

(A) that has not been reviewed by the board; and

(B) for which prior authorization is not required; or

(2) the sole drug in a new therapeutic classification that has not been reviewed by the board.

(f) The board may not exclude a drug from the preferred drug list based solely on price.

(g) The following requirements apply to a preferred drug list developed under subsection (a)(11):

(1) *Except as provided by IC 12-15-35.5-3(b) and IC 12-15-35.5-3(c)*, the office or the board may require prior authorization for a drug that is included on the preferred drug list under the following circumstances:

(A) To override a prospective drug utilization review alert.

(B) To permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under IC 16-42-22-10.

(C) To prevent fraud, abuse, waste, overutilization, or inappropriate utilization.

(D) To permit implementation of a disease management program.

(E) To implement other initiatives permitted by state or federal law.

(2) All drugs described in IC 12-15-35.5-3(b) must be included on

the preferred drug list.

(3) The office may add a *new single source* drug that has been approved by the federal Food and Drug Administration to the preferred drug list without prior approval from the board.

(4) The board may add a *new single source* drug that has been approved by the federal Food and Drug Administration to the preferred drug list.

(h) At least two (2) times each year, the board shall provide a report to the select joint commission on Medicaid oversight established by IC 2-5-26-3. The report must contain the following information:

(1) The cost of administering the preferred drug list.

(2) Any increase in Medicaid physician, laboratory, or hospital costs or in other state funded programs as a result of the preferred drug list.

(3) The impact of the preferred drug list on the ability of a Medicaid recipient to obtain prescription drugs.

(4) The number of times prior authorization was requested, and the number of times prior authorization was:

(A) approved; and

(B) disapproved.

(i) The board shall provide the first report required under subsection (h) not later than six (6) months after the board submits an initial preferred drug list to the office.

SECTION 105. IC 12-15-42-14, AS AMENDED BY P.L.1-2002, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 14. (a) The council shall provide an annual report to the governor, the legislative council, and the health finance commission (IC 2-5-23) not later than July 31 each year. ~~beginning in 2003.~~

(b) The report required under this section must include the following:

(1) The evaluation made by the office under IC 12-15-41-13 and any comments the council has regarding the evaluation.

(2) Recommendations for any necessary legislation or rules.

(c) A report provided under this section to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 106. IC 12-17-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 18.

The division shall annually report to the governor and the general assembly the following information:

- (1) The number of applicants for grants from the fund.
- (2) The number of grants awarded by the division.
- (3) Amounts left in the fund on June 30 of each year.
- (4) Other information requested by the governor or the general assembly.

A report under this section to the general assembly must be in an electronic format under IC 5-14-6.

SECTION 107. IC 12-17-15-15, AS AMENDED BY P.L.153-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 15. The council shall do the following:

- (1) Advise and assist the division in the performance of the responsibilities set forth in section 6 of this chapter, particularly the following:

- (A) Identification of the sources of fiscal and other support for services for early intervention programs.
- (B) Use of the existing resources to the full extent in implementing early intervention programs.
- (C) Assignment of financial responsibility to the appropriate agency.
- (D) Promotion of the interagency agreements.
- (E) Development and implementation of utilization review procedures.

- (2) Advise and assist the division in the preparation of applications required under 20 U.S.C. 1431 through 1445.

- (3) Prepare and submit an annual report to the governor, the general assembly, and the United States Secretary of Education by November 1 of each year concerning the status of early intervention programs for infants and toddlers with disabilities and their families. **A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.**

- (4) Periodically request from the agencies responsible for providing early childhood intervention services for infants and toddlers with disabilities and preschool special education programs written reports concerning the implementation of each

agency's respective programs.

(5) Make recommendations to the various agencies concerning improvements to each agency's delivery of services.

(6) Otherwise comply with 20 U.S.C. 1441.

SECTION 108. IC 12-17-16-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 14. Before October 1 of each year, the board shall prepare a report concerning the program established by this chapter for the public and the general assembly. **A report prepared under this section for the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 109. IC 12-17.2-3.1-11, AS AMENDED BY P.L.96-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 11. The board shall study the laws governing the regulation of child care and make recommendations to the general assembly concerning changes in the law the board finds are appropriate. Before November 1 of each year, the board shall submit a ~~written~~ report **in an electronic format under IC 5-14-6** to the legislative council that identifies the board's recommendations and discusses the status of the board's continuing program of study. The board's program of study under this section must include a study of the following topics:

- (1) The need for changes in the scope and degree of child care regulation established by statute or rule, or both.
- (2) The need to reorganize governmental units involved in the regulation of child care facilities to promote effective and efficient child care regulation, including the form that a needed reorganization should take.
- (3) A method for the completion of a statewide needs assessment to determine the availability and projected need for safe and affordable child care.
- (4) The need for programs to meet the needs of Indiana residents if the board determines that safe and affordable child care facilities are not available and easily accessible to Indiana residents.
- (5) The effect of pending and enacted federal legislation on child care in Indiana and the need for statutory changes to qualify for federal child care grants and to comply with federal child care requirements.

(6) The immunization rates at licensed child care centers to determine if children at the centers have received age appropriate immunizations.

SECTION 110. IC 12-17.6-2-12, AS AMENDED BY P.L.66-2002, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 12. Not later than April 1, the office shall provide a report describing the program's activities during the preceding calendar year to the:

- (1) budget committee;
- (2) legislative council;
- (3) children's health policy board established by IC 4-23-27-2; and
- (4) select joint commission on Medicaid oversight established by IC 2-5-26-3.

A report provided under this section to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 111. IC 12-20-28-3, AS AMENDED BY P.L.262-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) The definitions in this section apply to a report that is required to be filed under this section.

(b) As used in this section, "total number of households containing poor relief recipients" means the sum to be determined by counting the total number of individuals who file an application for which relief is granted. A household may be counted only once during a calendar year regardless of the number of times assistance is provided if the same individual makes the application for assistance.

(c) As used in this section, "total number of recipients" means the number of individuals who are members of a household that receives assistance on at least one (1) occasion during the calendar year. An individual may be counted only one (1) time during a calendar year regardless of the:

- (1) number of times assistance is provided; or
- (2) number of households in which the individual resides during a particular year.

(d) As used in this section, "total number of requests for assistance" means the number of times an individual or a household separately requests any type of township assistance.

(e) The township trustee shall file an annual statistical report on

township housing, medical care, utility, and food assistance with the state board of accounts. The township trustee shall provide a copy of the annual statistical report to the county auditor. The county auditor shall keep the copy of the report in the county auditor's office. Except as provided in subsection (i), the report must be made on a form provided by the state board of accounts. The report must contain the following information:

- (1) The total number of requests for assistance.
- (2) The total number of poor relief recipients and total number of households containing poor relief recipients.
- (3) The total value of benefits provided poor relief recipients.
- (4) The total number of poor relief recipients and households receiving utility assistance.
- (5) The total value of benefits provided for the payment of utilities.
- (6) The total number of poor relief recipients and households receiving housing assistance.
- (7) The total value of benefits provided for housing assistance.
- (8) The total number of poor relief recipients and households receiving food assistance.
- (9) The total value of food assistance provided.
- (10) The total number of poor relief recipients and households provided health care.
- (11) The total value of health care provided.
- (12) The total number of burials and cremations.
- (13) The total value of burials and cremations.
- (14) The total number of nights of emergency shelter provided to the homeless.
- (15) The total number of referrals of poor relief applicants to other programs.
- (16) The total number of training programs or job placements found for poor relief recipients with the assistance of the township trustee.
- (17) The number of hours spent by poor relief recipients at workfare.
- (18) The total amount of reimbursement for assistance received from:
 - (A) recipients;

(B) members of recipients' households; or

(C) recipients' estates;

under IC 12-20-6-10, IC 12-20-27-1, or IC 12-20-27-1.5.

(19) The total amount of reimbursement for assistance received from medical programs under IC 12-20-16-2(e).

If the total number or value of any item required to be reported under this subsection is zero (0), the township trustee shall include the notation "0" in the report where the total number or value is required to be reported.

(f) The state board of accounts shall forward a copy of each annual report forwarded to the board under subsection (e) to the department and the division of family and children.

(g) The division of family and children shall include in the division's periodic reports made to the United States Department of Health and Human Services concerning the Aid to Families with Dependent Children (AFDC) and Supplemental Security Income (SSI) programs information forwarded to the division under subsection (f) concerning the total number of poor relief recipients and the total dollar amount of benefits provided.

(h) The department may not approve the budget of a township trustee who fails to file an annual report under subsection (e) in the preceding calendar year. Before July 1 of each year, the department shall file a report **in an electronic format under IC 5-14-6** with the legislative council that compiles and summarizes the information sent to the state board of accounts by township trustees under subsection (e).

(i) This section does not prevent the electronic transfer of data required to be reported under IC 12-2-1-40 (before its repeal) or this section if the following conditions are met:

(1) The method of reporting is acceptable to both the township trustee reporting the information and the governmental entity to which the information is reported.

(2) A written copy of information reported by electronic transfer is on file with the township trustee reporting information by electronic means.

(j) The information required to be reported by the township trustee under this section shall be maintained by the township trustee in accordance with IC 5-15-6.

SECTION 112. IC 12-21-5-1.5, AS AMENDED BY P.L.215-2001, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1.5. The division shall do the following:

(1) Adopt rules under IC 4-22-2 to establish and maintain criteria to determine patient eligibility and priority for publicly supported mental health and addiction services. The rules must include criteria for patient eligibility and priority based on the following:

(A) A patient's income.

(B) A patient's level of daily functioning.

(C) A patient's prognosis.

(2) Within the limits of appropriated funds, contract with a network of managed care providers to provide a continuum of care in an appropriate setting that is the least restrictive to individuals who qualify for the services.

(3) Require the providers of services funded directly by the division to be in good standing with an appropriate accrediting body as required by rules adopted under IC 4-22-2 by the division.

(4) Develop a provider profile that must be used to evaluate the performance of a managed care provider and that may be used to evaluate other providers of mental health services that access state administered funds, including Medicaid, and other federal funding. A provider's profile must include input from consumers, citizens, and representatives of the mental health ombudsman program (IC 12-27-9) regarding the provider's:

(A) information provided to the patient on patient rights before treatment;

(B) accessibility, acceptability, and continuity of services provided or requested; and

(C) total cost of care per individual, using state administered funds.

(5) Ensure compliance with all other performance criteria set forth in a provider contract. In addition to the requirements set forth in IC 12-21-2-7, a provider contract must include the following:

(A) A requirement that the standards and criteria used in the evaluation of care plans be available and accessible to the

patient.

(B) A requirement that the provider involve the patient in the choice of and preparation of the treatment plan to the greatest extent feasible.

(C) A provision encouraging the provider to intervene in a patient's situation as early as possible, balancing the patient's right to liberty with the need for treatment.

(D) A requirement that the provider set up and implement an internal appeal process for the patient.

(6) Establish a toll free telephone number that operates during normal business hours for individuals to make comments to the division in a confidential manner regarding services or service providers.

(7) Develop a confidential system to evaluate complaints and patient appeals received by the division of mental health and addiction and to take appropriate action regarding the results of an investigation. A managed care provider is entitled to request and to have a hearing before information derived from the investigation is incorporated into the provider's profile. Information contained within the provider profile is subject to inspection and copying under IC 5-14-3-3.

(8) Submit a biennial report to the governor and legislative council that includes an evaluation of the continuum of care. **A report submitted under this subdivision to the legislative council must be in an electronic format under IC 5-14-6.**

(9) Conduct an actuarial analysis ~~July 1, 1994, July 1, 1996, and then~~ every four (4) years beginning July 1, 2000.

(10) Annually determine sufficient rates to be paid for services contracted with managed care providers who are awarded a contract under IC 12-21-2-7.

(11) Take actions necessary to assure the quality of services required by the continuum of care under this chapter.

(12) Incorporate the results from the actuarial analysis in subdivision (9) to fulfill the responsibilities of this section.

SECTION 113. IC 12-24-1-7, AS AMENDED BY P.L.215-2001, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7. (a) During the closing of Central State Hospital, and after the institution is closed, the division

of mental health and addiction shall secure, maintain, and fund appropriate long term inpatient beds for individuals who have been determined by a community mental health center to:

- (1) have a chronic and persistent mental disorder or chronic addictive disorder; and
- (2) be in need of care that meets the following criteria:
 - (A) Twenty-four (24) hour supervision of a patient is available.
 - (B) A patient receives:
 - (i) active treatment as appropriate for a chronic and persistent mental disorder or chronic addictive disorder;
 - (ii) case management services from a state approved provider; and
 - (iii) maintenance of care under the direction of a physician.
 - (C) Crisis care.

(b) An individual placed in a long term inpatient bed under this section shall receive at least the care described in subsection (a)(2)(A) through (a)(2)(C).

(c) The number of long term inpatient beds that must be secured, maintained, and funded under subsection (a) must satisfy both of the following:

- (1) The number of long term inpatient beds in the county where the hospital was located may not be less than twenty-one (21) adults per one hundred thousand (100,000) adults in the county where the hospital was located.
- (2) The total number of long term inpatient beds may not be less than twenty-one (21) adults per one hundred thousand (100,000) adults in the catchment area served by Central State Hospital. The division may reduce the total number of long term inpatient beds required by this subdivision whenever the division determines that caseloads justify a reduction. However:
 - (A) the total number of long term inpatient beds may not be reduced below the number required by subdivision (1); and
 - (B) the number of long term inpatient beds in the county where the hospital was located may not be reduced below the number required by subdivision (1).

(d) The division is not required to secure, maintain, and fund long term inpatient beds under this section that exceed the number of

individuals who have been determined by a community mental health center to be in need of inpatient care under subsection (a). However, subject to the limitations of subsection (c), the division shall at all times retain the ability to secure, maintain, and fund long term inpatient beds for individuals who satisfy the criteria in subsection (a) as determined by the community mental health centers.

(e) An individual may not be placed in a long term inpatient bed under this section at Larue D. Carter Memorial Hospital if the placement adversely affects the research and teaching mission of the hospital.

(f) Notwithstanding any other law, the director of the division of mental health and addiction may not terminate normal patient care or other operations at Central State Hospital unless the division has developed a plan to comply with this section. Before closing Central State Hospital, the director shall submit a report **in an electronic format under IC 5-14-6** to the legislative council containing the following information:

- (1) The plans the division has made and implemented to comply with this section.
- (2) The disposition of patients made and to be made from July 1, 1993, to the estimated date of closing of Central State Hospital.
- (3) Other information the director considers relevant.

SECTION 114. IC 12-24-1-10, AS AMENDED BY P.L.224-2003, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10. (a) Notwithstanding any other law, the director of the division of disability, aging, and rehabilitative services may not terminate normal patient care or other operations at Muscatatuck State Developmental Center unless the division has complied with this section.

(b) The division shall conduct at least one (1) public hearing at a handicap accessible location in the county where Muscatatuck State Developmental Center is located to obtain written and oral testimony from all persons interested in the effect that the center's downsizing would have on:

- (1) Muscatatuck State Developmental Center:
 - (A) residents;
 - (B) residents' families; and
 - (C) employees; and

- (2) communities surrounding Muscatatuck State Developmental Center.
- (c) The division shall conduct a study of the following issues:
 - (1) The risks to the health and well-being of residents of Muscatatuck State Developmental Center and the families of residents that arise from:
 - (A) downsizing Muscatatuck State Developmental Center; and
 - (B) transferring residents to new placements.
 - (2) The types of placements needed to adequately serve residents of Muscatatuck State Developmental Center in a setting that is located within the vicinity of the families of residents, including:
 - (A) the availability of adequate placements; and
 - (B) the need to develop new placement opportunities.
 - (3) The economic impact that downsizing will have on:
 - (A) Muscatatuck State Developmental Center:
 - (i) residents;
 - (ii) residents' families; and
 - (iii) employees; and
 - (B) communities surrounding Muscatatuck State Developmental Center.
 - (4) The existence of environmental hazards on the property where Muscatatuck State Developmental Center is located.
 - (5) Opportunities for reuse of the Muscatatuck State Developmental Center property in a manner that will enhance the economy of the area.
- (d) After the public hearing required under subsection (b), the division shall submit a report to the legislative council and the budget agency that contains the following information:
 - (1) A summary of the testimony received at the public hearing required under subsection (b).
 - (2) The results of the division's study under subsection (c).
 - (3) Other information the director of the division considers relevant.

A report submitted under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

- (e) The division shall develop a plan for the downsizing of Muscatatuck State Developmental Center. The plan must include the following:

(1) A plan and timetable for placement of appropriate residents of Muscatatuck State Developmental Center in adequate placements that fully meet the needs of the residents before downsizing Muscatatuck State Developmental Center.

(2) A plan for moving residents to alternative placements that protects the physical health, mental health, and safety of the residents.

(3) A plan for keeping:

(A) Muscatatuck State Developmental Center:

(i) residents;

(ii) residents' families; and

(iii) employees; and

(B) communities surrounding Muscatatuck State Developmental Center;

informed of each significant step taken in the planning, resident placement, and downsizing process.

(4) An environmental plan for the elimination of any environmental hazards on the property where Muscatatuck State Developmental Center is located.

(5) A plan and timetable for the reuse of the Muscatatuck State Developmental Center property in a manner that will provide for the best economic use of the property.

(6) A plan for monitoring compliance with the standards set to assure the health and safety of residents, compliance with this section, and compliance with the plans developed under this section.

The division shall submit the plan required under this subsection to the legislative council and the budget agency at the same time **and in the same format** that the report required under subsection (d) is submitted.

(f) The report required under subsection (d) and the plan required under subsection (e) must be approved by the budget director after review by the legislative council and the budget committee.

(g) The director may not complete the closure of Muscatatuck State Developmental Center until:

(1) the report and plan are approved by the budget director under subsection (f); and

(2) residents of Muscatatuck State Developmental Center are placed in adequate placements that:

- (A) fully meet the capabilities and needs of the residents; and
- (B) are located sufficiently close to the families of residents so that the families may maintain the same level of contact with the residents that the families had before the residents were transferred from Muscatatuck State Developmental Center.

SECTION 115. IC 13-15-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. Every twelve (12) months, the commissioner shall submit to the following a report that contains an evaluation of the actions taken by the department to improve the department's process of issuing permits:

- (1) The governor.
- (2) The general assembly. **The report must be in an electronic format under IC 5-14-6.**
- (3) The boards.

SECTION 116. IC 13-18-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5. The department shall do the following:

- (1) Manage all aspects of the program and supplemental program, except as provided under section 6 of this chapter.
- (2) Be the point of contact in relations with the United States Environmental Protection Agency, except as provided under section 6 of this chapter.
- (3) Cooperate with the budget agency in the administration and management of the program and supplemental program.
- (4) Cooperate with the budget agency in preparing and providing program information.
- (5) Review each proposed financial assistance agreement to determine whether the agreement meets the environmental and technical aspects of the program or supplemental program.
- (6) Periodically inspect project design and construction to determine compliance with the following:
 - (A) This chapter.
 - (B) The federal Clean Water Act.
 - (C) Construction plans and specifications.
- (7) Negotiate, jointly with the budget agency, the negotiable aspects of each financial assistance agreement.
- (8) If not accepted and held by the budget agency, accept and hold any letter of credit from the federal government through which the

state receives grant payments for the program and disbursements to the fund.

(9) Prepare, jointly with the budget agency, annual reports concerning the following:

- (A) The fund.
- (B) The program.
- (C) The supplemental fund.
- (D) The supplemental program.

(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. **A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.**

(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:

- (A) The fund.
- (B) The program.
- (C) The supplemental fund.
- (D) The supplemental program.

SECTION 117. IC 13-18-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6. The budget agency shall do the following:

- (1) Manage and implement the financial aspects of the program and supplemental program.
- (2) Cooperate with the department in the administration and management of the program and supplemental program.
- (3) If not accepted and held by the department, accept and hold any letter of credit from the federal government through which the state receives grant payments for the program and disbursements to the fund.
- (4) Be the point of contact with political subdivisions and other interested persons in preparing and providing program information.
- (5) Negotiate, jointly with the department, the negotiable aspects of each financial assistance agreement.
- (6) Prepare or cause to be prepared each financial assistance agreement.
- (7) Sign each financial assistance agreement.

(8) Conduct or cause to be conducted an evaluation as to the financial ability of each political subdivision to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.

(9) Prepare, jointly with the department, annual reports concerning the following:

- (A) The fund.
- (B) The program.
- (C) The supplemental fund.
- (D) The supplemental program.

(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. **A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.**

(11) Enter into memoranda of understanding with the department concerning the administration and management of the following:

- (A) The fund.
- (B) The program.
- (C) The supplemental fund.
- (D) The supplemental program.

SECTION 118. IC 13-18-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1.

(a) The interagency groundwater task force is established to do all of the following:

- (1) Study groundwater contamination in Indiana.
- (2) Coordinate efforts among the agencies to address groundwater pollution problems.
- (3) Coordinate the implementation of the Indiana groundwater quality protection and management strategy.
- (4) Develop policies to prevent groundwater pollution.

(b) The task force consists of the following:

- (1) The commissioner.
- (2) The director of the department of natural resources.
- (3) The commissioner of the state department of health.
- (4) The state chemist.
- (5) The state fire marshal.

- (6) One (1) representative of the business community.
- (7) One (1) representative of the environmentalist community.
- (8) One (1) representative of the agricultural community.
- (9) One (1) representative of labor.
- (10) One (1) representative of local government.

(c) The governor shall appoint the members provided for in subsection (b)(6) through (b)(10). The term of a member appointed under this subsection is two (2) years. A member may be appointed to successive terms.

(d) Each member of the task force who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) An agency head listed in subsection (b):

- (1) shall provide staff support to the task force; and
- (2) may appoint a proxy to participate in task force proceedings when the agency head is not present.

(f) The agency heads referred to in subsection (b)(1) through (b)(5) shall invite participation in the task force by representatives of the governor's office and the United States Environmental Protection Agency.

(g) The task force may adopt bylaws to govern the conduct of task force activities. The task force shall hold at least one (1) public meeting in four (4) months.

(h) The task force shall present an annual report on the activities of the task force to the governor and the general assembly. **A report presented under this subsection to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 119. IC 13-18-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5. The department shall do the following:

- (1) Manage all aspects of the program, except as provided by section 6 of this chapter.
- (2) Be the point of contact in relations with the United States Environmental Protection Agency, except as provided in section

6 of this chapter.

(3) Cooperate with the budget agency in the administration and management of the program.

(4) Cooperate with the budget agency in preparing and providing program information.

(5) Review each proposed financial assistance agreement to determine whether the agreement meets the environmental and technical aspects of the program.

(6) Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(C) Construction plans and specifications.

(7) Negotiate, jointly with the budget agency, the negotiable aspects of each financial assistance agreement.

(8) If not accepted and held by the budget agency, accept and hold any letter of credit from the federal government through which the state receives grant payments for the program and disbursements to the fund.

(9) Prepare, jointly with the budget agency, annual reports concerning the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. **A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.**

(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

SECTION 120. IC 13-18-21-6, AS AMENDED BY P.L.132-1999,

SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6. The budget agency shall do the following:

- (1) Manage and implement the financial aspects of the program.
- (2) Cooperate with the department in the administration and management of the program.
- (3) If not accepted and held by the department, accept and hold any letter of credit from the federal government through which the state receives grant payments for the program and disbursements to the fund.
- (4) Be the point of contact with participants and other interested persons in preparing and providing program information.
- (5) Negotiate, jointly with the department, the negotiable aspects of each financial assistance agreement.
- (6) Prepare or cause to be prepared each financial assistance agreement.
- (7) Execute each financial assistance agreement.
- (8) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.
- (9) Prepare, jointly with the department, annual reports concerning the fund and the program.
- (10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. **A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.**
- (11) Enter into memoranda of understanding with the department concerning the administration and management of the fund and the program.

SECTION 121. IC 13-19-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. The authority shall do the following under this chapter:

- (1) Be responsible for the management of all aspects of the program.
- (2) Prepare and provide program information.
- (3) Negotiate the negotiable aspects of each financial assistance

agreement and submit the agreement to the budget agency for approval.

(4) Sign each financial assistance agreement.

(5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by rule or guidance document.

(6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.

(7) Prepare annual reports concerning the fund and the program and submit the reports to the governor and the general assembly.

A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.

(8) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the fund and the program.

SECTION 122. IC 13-20-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10.

(a) The department shall report annually to the governor and the general assembly on the following:

(1) Waste tire management as required by this chapter.

(2) The status of the waste tire management fund.

(3) The status of programs funded by the fund.

(b) A report issued by the department under this section may include recommendations for revisions to waste tire management programs.

(c) Before the department may issue a report under this section, the department must solicit public comment on the report.

(d) A report issued by the department under this section to the general assembly must be in an electronic format under IC 5-14-6.

SECTION 123. IC 13-20-20-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 12.

(a) Before February 1 of each year, the department shall submit an annual report to the:

(1) governor;

(2) legislative council; and

(3) budget director.

A report submitted under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(b) The report must contain the following:

- (1) A description of each project funded through grants under this chapter.
- (2) A statement of the total amount of money that the department expends through grants under this chapter during the immediately preceding year.
- (3) An estimate of the amount of money that is required to meet the eligible grant requests for the current year.
- (4) Proposals of recommendations for any changes, in funding or otherwise, to the grant project.

SECTION 124. IC 13-27-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. Each year the commissioner shall prepare and submit to the governor and the general assembly a report regarding the pollution prevention information gathered under this article, including:

- (1) a description of the operations and activities of the programs under this article; and
- (2) recommendations the commissioner has for legislative action.

A report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.

SECTION 125. IC 13-27.5-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9.

(a) Before January 1 of each year, the institute shall prepare and submit to:

- (1) the governor;
- (2) the board;
- (3) the commissioner; and
- (4) the general assembly;

a report on the institute's operations and activities under this chapter including the status, funding, and results of all projects. **A report submitted to the general assembly must be in an electronic format under IC 5-14-6.**

(b) The report must do the following:

- (1) Include recommendations the institute has for legislation.
- (2) Identify state and federal economic and financial incentives that can best accelerate and maximize the research, development, demonstration, and support of clean manufacturing technologies and practices.
- (3) Include an assessment by the institute of the grants program

administered by the department under IC 13-27-2.

(4) Include a proposed work plan for the following year.

(5) Identify state and federal policies that may serve as disincentives to the adoption of clean manufacturing technologies and practices by manufacturers.

SECTION 126. IC 14-12-2-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 33. Before October 1 of each year, the trust committee shall prepare a report concerning the program established by this chapter for the public and the general assembly. **A report prepared for the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 127. IC 14-13-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 13. Before November 1 of each year, the commission shall make a report of the commission's activities to each municipality that appointed a commission member. The commission shall also make an annual report to the following:

(1) The governor, upon request of the governor.

(2) The legislative council, upon request of the legislative council.

The report must be in an electronic format under IC 5-14-6.

SECTION 128. IC 14-13-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 14. Before November 1 of each year, the commission shall make a report of the commission's activities to each municipality that appointed a commission member. The commission shall also make an annual report to the following:

(1) The governor, upon request of the governor.

(2) The legislative council, upon request of the legislative council.

The report must be in an electronic format under IC 5-14-6.

SECTION 129. IC 14-13-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 15. Before November 1 of each year, the commission shall make a report of the commission's activities to the following:

(1) Each municipality that appointed a member of the commission.

(2) The governor.

(3) The general assembly. **The report must be in an electronic format under IC 5-14-6.**

SECTION 130. IC 14-21-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 18.

(a) A:

- (1) historic site or historic structure owned by the state; or
- (2) historic site or historic structure listed on the state or national register;

may not be altered, demolished, or removed by a project funded, in whole or in part, by the state unless the review board has granted a certificate of approval.

(b) An application for a certificate of approval:

- (1) must be filed with the division; and
- (2) shall be granted or rejected by the review board after a public hearing.

(c) Subsections (a) and (b) do not apply to real property that is owned by a state educational institution (as defined in IC 20-12-0.5-1).

(d) The commission for higher education and each state educational institution, in cooperation with the division of historic preservation and archeology, shall develop and continually maintain a survey of historic sites and historic structures owned by the state educational institution. Historic sites and historic structures include buildings, structures, outdoor sculpture, designed landscapes, gardens, archeological sites, cemeteries, campus plans, and historic districts. A survey developed under this subsection must conform with the Indiana Historic Sites and Structures Survey Manual.

(e) The state historic preservation officer no later than one (1) year after receipt of a ten (10) year capital plan under IC 14-21-1-18.5 shall:

- (1) review a proposed state college or university project that involves a historic site or historic structure owned by a state educational institution; and
- (2) submit an advisory report to the commission for higher education, the state educational institution, and the general assembly. **An advisory report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.**

(f) Not more than thirty (30) days after a state college or university, under section 18.6 of this chapter, submits to the division a description of a proposed project that involves the substantial alteration, demolition, or removal of a historic site or historic structure, the state

historic preservation officer shall:

- (1) review the description of the proposed project; and
- (2) submit to the state college or university an advisory report concerning the proposed project.

The state college or university shall review and consider the advisory report before proceeding with the substantial alteration, demolition, or removal of a historic site or historic structure.

SECTION 131. IC 14-25-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 16. The natural resources study committee created by IC 2-5-5-1 shall do the following:

- (1) Oversee the water resource management program of this chapter and the needs of the people of Indiana.
- (2) Report the findings and recommendations **in an electronic format under IC 5-14-6** to the general assembly through the legislative council.

SECTION 132. IC 14-30-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 12. The commission shall make an annual report of the commission's activities to the following:

- (1) The executive of each county in the basin.
- (2) Upon request to the following:
 - (A) The governor.
 - (B) The general assembly. **The report must be in an electronic format under IC 5-14-6.**

SECTION 133. IC 14-32-8-9, AS ADDED BY P.L.160-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9. The districts shall coordinate with the division of soil conservation to compile and provide a report to the executive director of the legislative services agency each year. The report **must be in an electronic format under IC 5-14-6** and must describe:

- (1) the expenditures of the clean water Indiana fund; and
- (2) the number, type, status, and effectiveness of conservation efforts funded by the clean water Indiana program.

SECTION 134. IC 15-1-1.5-8, AS AMENDED BY P.L.99-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8. The committee shall do the

following:

- (1) Serve as liaison between the commission, the board of trustees of the barn, the board, and the general assembly.
- (2) Review policies affecting the activities of the commission, the barn, the state fair, the facilities at the fairgrounds, and the property owned by the commission.
- (3) Provide long range guidance for the commission, the board of trustees of the barn, and the board.
- (4) Review annually the commission's, the board of trustees of the barn's, and the board's budgets and other accounts and report financial conditions to the legislative council. **A report under this subdivision to the legislative council must be in electronic format under IC 5-14-6.**
- (5) Further advise the budget committee regarding appropriations and other financial matters concerning the commission, the board of trustees of the barn, and the board.
- ~~(5)~~ (6) Propose, review, and make recommendations concerning legislation affecting the commission, the barn, and the board.

SECTION 135. IC 16-19-13-3, AS ADDED BY P.L.52-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. The office is established for the following purposes:

- (1) To educate and advocate for women's health by requesting that the state department, either on its own or in partnership with other entities, establish appropriate forums, programs, or initiatives designed to educate the public regarding women's health, with an emphasis on preventive health and healthy lifestyles.
- (2) To assist the state health commissioner in identifying, coordinating, and establishing priorities for programs, services, and resources the state should provide for women's health issues and concerns relating to the reproductive, menopausal, and postmenopausal phases of a woman's life, with an emphasis on postmenopausal health.
- (3) To serve as a clearinghouse and resource for information regarding women's health data, strategies, services, and programs that address women's health issues, including the following:
 - (A) Diseases that significantly impact women, including heart disease, cancer, and osteoporosis.

- (B) Menopause.
 - (C) Mental health.
 - (D) Substance abuse.
 - (E) Sexually transmitted diseases.
 - (F) Sexual assault and domestic violence.
- (4) To collect, classify, and analyze relevant research information and data conducted or compiled by:
- (A) the state department; or
 - (B) other entities in collaboration with the state department; and to provide interested persons with information regarding the research results, except as prohibited by law.
- (5) To develop and recommend funding and program activities for educating the public on women's health initiatives, including the following:
- (A) Health needs throughout a woman's life.
 - (B) Diseases that significantly affect women, including heart disease, cancer, and osteoporosis.
 - (C) Access to health care for women.
 - (D) Poverty and women's health.
 - (E) The leading causes of morbidity and mortality for women.
 - (F) Special health concerns of minority women.
- (6) To make recommendations to the state health commissioner regarding programs that address women's health issues for inclusion in the state department's biennial budget and strategic planning.
- (7) To seek funding from private or governmental entities to carry out the purposes of this chapter.
- (8) To prepare materials for publication and dissemination to the public on women's health.
- (9) To conduct public educational forums in Indiana to raise public awareness and to educate citizens about women's health programs, issues, and services.
- (10) To coordinate the activities and programs of the office with other entities that focus on women's health or women's issues, including the Indiana commission for women (IC 4-23-25-3).
- (11) To represent the state health commissioner, upon request, before the general assembly and the Indiana commission for women established by IC 4-23-25-3.

(12) To provide an annual report to the governor, the legislative council, and the Indiana commission for women regarding the successes of the programs of the office, priorities and services needed for women's health in Indiana, and areas for improvement.

A report provided under this subdivision to the legislative council must be in an electronic format under IC 5-14-6.

This section does not allow the director or any employees of the office to advocate, promote, refer to, or otherwise advance abortion or abortifacients.

SECTION 136. IC 16-21-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10. Each year the state health commissioner or the commissioner's designee shall make a compilation of the data obtained from the reports required under sections 3 and 6 of this chapter and report **in an electronic format under IC 5-14-6** the findings and recommendations to the general assembly not later than December 1 of the year the reports are filed. However, the commissioner is not required to incorporate a report that is required to be filed by a hospital with the state department less than one hundred twenty (120) days before December 1, but shall incorporate the report data in the report to be made the following year.

SECTION 137. IC 16-30-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. (a) The state department shall identify and assess the health needs of the citizens and communities of Indiana.

(b) The state department shall submit annually to the governor and to the general assembly a report of the health needs and the state department's recommendations. Each report must be submitted by November 1 of each year. **A report submitted to the general assembly must be in an electronic format under IC 5-14-6.**

(c) The report required by subsection (b) must address, on a county by county basis, the health needs of Indiana concerning the provision of the following types of services:

- (1) Public health services described in this title.
- (2) Disease treatment services described in IC 16-45 and IC 16-46.
- (3) Food and drug control services described in IC 16-42 and IC 16-43.

(4) All other services within the jurisdiction of the state department.

(d) The report required by subsection (b) must, under section 4 of this chapter, assess the adequacy of the existing number of beds in health care facilities and the need for the addition of beds.

SECTION 138. IC 16-38-4-8, AS AMENDED BY P.L.11-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8. (a) The state department shall establish a birth problems registry for the purpose of recording all cases of birth problems that occur in Indiana residents and compiling necessary and appropriate information concerning those cases, as determined by the state department, in order to:

(1) conduct epidemiologic and environmental studies and to apply appropriate preventive and control measures;

(2) inform the parents of children with birth problems:

(A) at the time of discharge from the hospital; or

(B) if a birth problem is diagnosed during a physician or hospital visit that occurs before the child is two (2) years of age, at the time of diagnosis;

about physicians, care facilities and appropriate community resources, including local step ahead agencies and the infants and toddlers with disabilities program (IC 12-17-15); or

(3) inform citizens regarding programs designed to prevent or reduce birth problems.

(b) The state department shall record in the birth problems registry:

(1) all data concerning birth problems of children that are provided from the certificate of live birth; and

(2) any additional information that may be provided by an individual or entity described in section 7(a)(2) of this chapter concerning a birth problem that is:

(A) designated in a rule adopted by the state department; and

(B) recognized:

(i) after the child is discharged from the hospital as a newborn; and

(ii) before the child is two (2) years of age.

(c) The state department shall:

(1) provide a physician and a local health department with necessary forms for reporting under this chapter; and

(2) report **in an electronic format under IC 5-14-6** to the legislative council any birth problem trends that are identified through the data collected under this chapter.

SECTION 139. IC 16-38-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 18. The state department shall report to the legislative council and the governor each year before November 1, the following:

- (1) The numbers and types of birth problems occurring in Indiana by county.
- (2) The amount of use of the birth problems registry by researchers.
- (3) Proposals for the prevention of birth problems occurring in Indiana.

A report under this section to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 140. IC 16-38-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 19.

(a) During the year 2006, a committee of the general assembly shall review the need to continue the registry. The committee shall submit its recommendations **in an electronic format under IC 5-14-6** to the general assembly before December 31, 2006.

(b) The registry is abolished July 1, 2007.

SECTION 141. IC 16-46-5-18, AS AMENDED BY P.L.72-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 18. The state department shall file an annual report with the governor and the general assembly on the following:

- (1) The receipt, disbursement, and use of funds.
- (2) The identification of shortage areas.
- (3) The number of applications for loan repayment by the following categories:
 - (A) Profession.
 - (B) Specialty.
 - (C) Underserved area to be served.
- (4) The number and amount of loan repayments provided by the state department.

A report filed under this section with the general assembly must be in an electronic format under IC 5-14-6.

SECTION 142. IC 16-46-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 11. The council shall submit a report **in an electronic format under IC 5-14-6** to the general assembly before November 1 of each year. The report must include the following:

- (1) The findings and conclusions of the council.
- (2) Recommendations of the council.

SECTION 143. IC 20-1-1.6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6.

(a) The superintendent of public instruction shall:

- (1) appoint a full-time director to administer the academy;
- (2) employ staff necessary to implement this chapter;
- (3) appoint members of the advisory board; and
- (4) submit to the general assembly an annual report before July 1 of each year.

(b) The annual report of the superintendent of public instruction **must be in an electronic format under IC 5-14-6** and must include the following:

- (1) A summary of the activities of the academy.
- (2) Data on the number of persons trained.
- (3) An analysis of the extent to which the purposes of the academy have been accomplished.
- (4) A proposal for a program and budget for the two (2) years following the year that is the subject of the report.

SECTION 144. IC 20-1-18.3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10.

(a) The commission shall develop and implement a long range state plan for a comprehensive vocational education program in Indiana.

(b) This plan shall be kept current. The plan and any revisions made to this plan shall be made available to the governor, the general assembly, the Indiana state board of education and the department of education, the commission for higher education, the state human resource investment council, the Indiana commission on proprietary education, and any other appropriate state or federal agency. **A plan or revised plan submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.**

(c) The plan must set forth specific goals for public vocational education at all levels and must include the following:

- (1) The preparation of each graduate for both employment and further education.
- (2) Accessibility of vocational education to persons of all ages who desire to explore and learn for economic and personal growth.
- (3) Projected employment opportunities in various vocational and technical fields.
- (4) A study of the supply of and the demand for a labor force skilled in particular vocational and technical areas.
- (5) A study of technological and economic change affecting Indiana.
- (6) An analysis of the private vocational sector in Indiana.
- (7) Recommendations for improvement in the state vocational education program.
- (8) The educational levels expected of programs proposed to meet the projected employment needs.

SECTION 145. IC 20-1-18.3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 11. The commission shall also do the following:

- (1) Make recommendations to the general assembly concerning the development, duplication, and accessibility of employment training and vocational education on a regional and statewide basis.
- (2) Consult with any state agency, commission, or organization that supervises or administers programs of vocational education concerning the coordination of vocational education, including the following:
 - (A) The department of commerce.
 - (B) The state human resource investment council.
 - (C) A private industry council (as defined in 29 U.S.C. 1501 et seq.).
 - (D) The department of labor.
 - (E) The Indiana commission on proprietary education.
 - (F) The commission for higher education.
 - (G) The Indiana state board of education.
- (3) Review and make recommendations concerning plans submitted by the Indiana state board of education and the commission for higher education. The commission may request

the resubmission of plans or parts of plans that do not meet the following criteria:

- (A) Consistency with the long range state plan of the commission.
- (B) Evidence of compatibility of plans within the system.
- (C) Avoidance of duplication of existing services.
- (4) Report to the general assembly on the commission's conclusions and recommendations concerning interagency cooperation, coordination, and articulation of vocational education and employment training. **A report under this subdivision must in an electronic format under IC 5-14-6.**
- (5) Study and develop a plan concerning the transition between secondary level vocational education and postsecondary level vocational education.
- (6) Enter into agreements with the federal government that may be required as a condition of receiving federal funds under the Vocational Education Act (20 U.S.C. 2301 et seq.). An agreement entered into under this subdivision is subject to the approval of the budget agency.

SECTION 146. IC 20-1-18.4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8. The state board of education shall develop a definition for and report biennially to the:

- (1) general assembly;
- (2) governor; and
- (3) commission;

on attrition and persistence rates by students enrolled in secondary vocational education. **A biennial report under this section to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 147. IC 20-1-20-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 12. Beginning in 1991, the panel shall submit a report before August 1 of each year to the governor, the general assembly, the Indiana state board of education, and the commission for higher education detailing the panel's work. **A report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 148. IC 20-5.5-3-9, AS ADDED BY P.L.100-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003 (RETROACTIVE)]: Sec. 9. (a) A sponsor must notify the department of the following:

- (1) The receipt of a proposal.
 - (2) The acceptance of a proposal.
 - (3) The rejection of a proposal, including the reasons for the rejection.
- (b) The department shall annually do the following:
- (1) Compile the information received under subsection (a) into a report.
 - (2) Submit the report **in an electronic format under IC 5-14-6** to the legislative council.

SECTION 149. IC 20-5.5-3-12, AS ADDED BY P.L.100-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 12. (a) The department shall monitor the number of charter schools approved by universities.

(b) Within six (6) months after twenty (20) charter schools have been approved by universities, the department shall issue a report to the charter school review panel identifying:

- (1) the purpose and organization of all charter schools sponsored by universities;
 - (2) the procedure by which charter schools have been approved and monitored by university sponsors; and
 - (3) recommendations regarding the future of university sponsorships.
- (c) The report completed under subsection (b) shall be submitted **in an electronic format under IC 5-14-6** to the legislative council.

SECTION 150. IC 20-8.1-6.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 12. (a) Annually before the date specified in the rules adopted by the Indiana state board of education, each school corporation shall report the information specified in subsection (b) for each student:

- (1) for whom tuition support is paid by another school corporation;
 - (2) for whom tuition support is paid by the state; and
 - (3) who is enrolled in the school corporation but has the equivalent of a legal settlement in another state or country;
- to the county office (as defined in IC 12-7-2-45) for the county in which the principal office of the school corporation is located and to

the department of education.

(b) Each school corporation shall provide the following information for each school year beginning with the school year beginning July 1, 1994, for each category of student described in subsection (a):

- (1) The amount of tuition support and other support received for the students described in subsection (a).
- (2) The operating expenses, as determined under section 8 of this chapter, incurred for the students described in subsection (a).
- (3) Special equipment expenditures that are directly related to educating students described in subsection (a).
- (4) The number of transfer students described in subsection (a).
- (5) Any other information required under the rules adopted by the Indiana state board of education after consultation with the office of the secretary of family and social services.

(c) The information required under this section shall be reported in the format and on the forms specified by the Indiana state board of education.

(d) Not later than November 30 of each year beginning after December 31, 1994, the department of education shall compile the information required from school corporations under this section and submit the compiled information in the form specified by the office of the secretary of family and social services to the office of the secretary of family and social services.

(e) Not later than November 30 of each year beginning after December 31, 1994, each county office shall submit the following information to the office of the secretary of family and social services for each child who is described in IC 12-19-7-1(1) and is placed in another state or is a student in a school outside the school corporation where the child has legal settlement:

- (1) The name of the child.
- (2) The name of the school corporation where the child has legal settlement.
- (3) The last known address of the custodial parent or guardian of the child.
- (4) Any other information required by the office of the secretary of family and social services.

(f) Not later than December 31 of each year, ~~beginning after December 31, 1994,~~ the office of the secretary of family and social

services shall submit a report to the members of the budget committee and the executive director of the legislative services agency that compiles and analyzes the information required from school corporations under this section. The report shall identify the types of state and local funding changes that are needed to provide adequate state and local money to educate transfer students. **A report submitted under this subsection to the executive director of the legislative services agency must be in an electronic format under IC 5-14-6.**

SECTION 151. IC 20-10.1-5.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7. The division:

- (1) shall aid school corporations in developing bilingual-bicultural programs by evaluating instructional materials, compiling material on the theory and practice of bilingual-bicultural instruction, encouraging innovative programs, and otherwise providing technical assistance to the corporations;
- (2) shall aid school corporations in developing and administering in-service training programs for school administrators and personnel involved in bilingual-bicultural programs;
- (3) shall monitor and evaluate bilingual-bicultural programs conducted by school corporations;
- (4) shall make an annual report on the status of the bilingual-bicultural programs to the governor and the general assembly;
- (5) shall establish bilingual-bicultural educational resource centers for the use of the school corporations; and
- (6) may promulgate regulations to implement this chapter.

A report made under subdivision (4) to the general assembly must be in an electronic format under IC 5-14-6.

SECTION 152. IC 20-10.1-25.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4. The articles of incorporation and bylaws of the corporation must provide for the following:

- (1) That the exclusive purposes of the corporation are to:
 - (A) administer a statewide computer project placing computers in homes of public school students (commonly referred to as the "buddy system project") and any other educational technology program or project jointly authorized

by the state superintendent and the governor; and

(B) advise the state superintendent and the governor on education related technology initiatives, specifically those initiatives implemented through the educational technology program under IC 20-10.1-25.

(2) That the board of directors of the corporation is composed of sixteen (16) individuals who shall serve at the pleasure of the state superintendent and the governor and who shall be appointed jointly by the state superintendent and the governor as follows:

(A) Four (4) individuals who represent private business.

(B) Three (3) individuals who are public school educators with one (1) representing an urban school corporation, one (1) representing a suburban school corporation, and one (1) representing a rural school corporation.

(C) Four (4) individuals who are members of the general assembly and who are appointed as follows:

(i) Two (2) members of the house of representatives, appointed by the speaker of the house of representatives with not more than one (1) from a particular political party.

(ii) Two (2) members of the senate, appointed by the president pro tempore of the senate with not more than one (1) from a particular political party.

(D) Five (5) individuals who represent education.

(3) That the state superintendent shall designate the chairman of the board from the membership of the board.

(4) That the board may select other officers the board considers necessary, including a vice chairman, treasurer, or secretary.

(5) That the chairman of the board may appoint subcommittees that the chairman considers necessary to carry out the duties of the corporation.

(6) That the corporation, with the approval of the state superintendent, shall appoint or contract with a person to be president. The person shall serve as the chief operating officer of the corporation, and may employ consultants to carry out the corporation's duties under this chapter.

(7) That a majority of the entire membership constitutes a quorum to do business. However, no action of the corporation is valid unless approved by at least nine (9) members of the corporation.

(8) That each member of the board of directors of the corporation who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is, however, entitled to reimbursement for traveling expenses and other expenses actually incurred in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(9) That each member of the board of directors of the corporation who is a state employee, but who is not a member of the general assembly, is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(10) That each member of the board of directors of the corporation who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

(11) That the corporation may receive money from any source, including state appropriations, may enter into contracts, and may expend funds for any activities necessary, convenient, or expedient to carry out the exclusive purposes of the corporation.

(12) That an individual who makes a donation to the corporation may designate:

(A) the particular school corporation; or

(B) the educational technology program implemented by the corporation under IC 20-10.1-25;

entitled to receive the donation and that the corporation may not authorize the distribution of that donation in a manner that disregards or otherwise interferes with the donor's designation. However, an individual who wishes to make a donation under this chapter is not entitled to specify, designate, or otherwise require that the corporation utilize the donation to purchase particular technology equipment or patronize a particular vendor of technology equipment.

(13) That if the corporation elects to expend funds that have not been designated to a particular school corporation or educational

technology program under IC 20-10.1-25, the corporation shall first expend those unspecified funds to school corporations or programs that have not been the recipient of a designated donation under subdivision (12).

(14) That the corporation shall take into account other programs and distributions available to school corporations for at-risk students.

(15) That any changes in the articles of incorporation or bylaws must be approved by the board.

(16) That the corporation shall submit an annual report to the general assembly before November 2 of each year and that the report must include detailed information on the structure, operation, and financial status of the corporation **and must be in an electronic format under IC 5-14-6.**

(17) That the corporation is subject to an annual audit by the state board of accounts and that the corporation shall pay the full costs of the audit.

SECTION 153. IC 20-10.1-27-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 12.

(a) By June 1 of each school year, each participating school corporation shall submit to the department a written report, on forms developed by the department, outlining the activities undertaken as part of the school corporation's pilot project.

(b) By November 1 of each year, the department shall submit a comprehensive report to the governor and the general assembly on the pilot program, including the department's conclusions and recommendations with regard to the impact that the pilot program has made on decreasing criminal gang activity in Indiana. **A report submitted under this subsection to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 154. IC 20-12-0.5-8, AS AMENDED BY P.L.24-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8. The commission shall have the following powers and duties:

(1) To develop, continually keep current, and implement a long range plan for postsecondary education. In developing this plan, the commission shall take into account the plans and interests of the state private institutions, anticipated enrollments in state

postsecondary institutions, financial needs of students, and other factors pertinent to the quality of educational opportunity available to the citizens of Indiana. The plan shall define the educational missions and the projected enrollments of the various state educational institutions.

(2) To consult with and make recommendations to the commission on vocational and technical education within the department of workforce development on all postsecondary vocational education programs. The commission shall biennially prepare a plan for implementing postsecondary vocational education programming after considering the long range state plan developed under IC 20-1-18.3-10. The commission shall submit this plan to the commission on vocational and technical education within the department of workforce development for its review and recommendations, and shall specifically report on how the plan addresses preparation for employment.

(3) To make recommendations to the general assembly and the governor concerning the long range plan, and prepare to submit drafts and proposed legislation needed to implement the plan. The commission may also make recommendations to the general assembly concerning the plan for postsecondary vocational education under subdivision (2).

(4) To review the legislative request budgets of all state educational institutions preceding each session of the general assembly and to make recommendations concerning appropriations and bonding authorizations to state educational institutions including public funds for financial aid to students by any state agency. The commission may review all programs of any state educational institution, regardless of the source of funding, and may make recommendations to the governing board of the institution, the governor, and the general assembly concerning the funding and the disposition of the programs. In making this review, the commission may request and shall receive, in such form as may reasonably be required, from all state educational institutions, complete information concerning all receipts and all expenditures.

(5) To submit to the commission on vocational and technical education within the department of workforce development for its

review under IC 20-1-18.3-15 the legislative budget requests prepared by state educational institutions for state and federal funds for vocational education. These budget requests shall be prepared upon request of the budget director, shall cover the period determined by the budget director, and shall be made available to the commission within the department of workforce development before review by the budget committee.

(6) To make, or cause to be made, studies of the needs for various types of postsecondary education and to make recommendations to the general assembly and the governor concerning the organization of these programs. The commission shall make or cause to be made studies of the needs for various types of postsecondary vocational education and shall submit to the commission on vocational and technical education within the department of workforce development ~~its~~ **the commission's** findings in this regard.

(7) To approve or disapprove the establishment of any new branches, regional or other campuses, or extension centers or of any new college or school, or the offering on any campus of any additional associate, baccalaureate, or graduate degree, or of any additional program of two (2) semesters, or their equivalent in duration, leading to a certificate or other indication of accomplishment. After March 29, 1971, no state educational institution shall establish any new branch, regional campus, or extension center or any new or additional academic college, or school, or offer any new degree or certificate as defined in this subdivision without the approval of the commission or without specific authorization by the general assembly. Any state educational institution may enter into contractual agreements with governmental units or with business and industry for specific programs to be wholly supported by the governmental unit or business and industry without the approval of the commission.

(8) If so designated by the governor or the general assembly, to serve as the agency for the purposes of receiving or administering funds available for postsecondary education programs, projects, and facilities for any of the acts of the United States Congress where the acts of Congress require the state to designate such an agency or commission. However, this subdivision does not

provide for the designation of the commission by the governor as the recipient of funds which may be provided by acts of the United States Congress, received by an agency, a board, or a commission designated by the general assembly.

(9) To designate and employ an executive officer and necessary employees, to designate ~~their the~~ **titles of the executive officer and necessary employees**, and to fix the compensation in terms of the employment.

(10) To appoint appropriate advisory committees composed of representatives of state educational institutions, representatives of private colleges and universities, students, faculty, and other qualified persons.

(11) To employ all powers properly incident to or connected with any of the foregoing purposes, powers, or duties, including the power to adopt rules.

(12) To develop a definition for and report biennially to the:

(A) general assembly;

(B) governor; and

(C) commission on vocational and technical education within the department of workforce development;

on attrition and persistence rates by students enrolled in state vocational education. **A report under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.**

(13) To submit a report to the legislative council not later than August 30 of each year on the status of the transfer of courses and programs between state educational institutions. The report must include any changes made during the immediately preceding academic year.

(14) To direct the activities of the committee, including the activities set forth in subdivisions (15) and (16).

(15) To develop through the committee statewide transfer of credit agreements for courses that are most frequently taken by undergraduates.

(16) To develop through the committee statewide agreements under which associate of arts and associate of science programs articulate fully with related baccalaureate degree programs.

(17) To publicize by all appropriate means, including an Internet

web site, a master list of course transfer of credit agreements and program articulation agreements.

SECTION 155. IC 20-12-70-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 16. The commission shall do the following:

- (1) Prepare a statistical report on a fiscal year basis that describes awards to students attending institutions under this chapter.
- (2) Deliver the report described in subdivision (1) to the legislative council before August 15 of the year following the fiscal year covered in the report. **The report must be in an electronic format under IC 5-14-6.**

SECTION 156. IC 20-12-75-11, AS ADDED BY P.L.273-1999, SECTION 203, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 11. (a) The commission for higher education established by IC 20-12-0.5-2 shall make a community college system report to the budget committee and the legislative council by August 1 of each year. Vincennes University and Ivy Tech State College shall assist the commission for higher education in the preparation of this report.

(b) The report described in subsection (a) must include all of the following information:

- (1) Enrollment at each community college system site.
- (2) Projected enrollments.
- (3) Costs to students.
- (4) Revenues, expenditures, and other financial information.
- (5) Program information.
- (6) Other information pertinent to the educational opportunity offered by the community college system.

(c) The report described in subsection (a) that is submitted to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 157. IC 21-9-4-8, AS AMENDED BY P.L.135-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 8. The authority shall prepare an annual report for the education savings programs and services and promptly transmit the annual report to the governor and the general assembly. The authority shall make available, upon request, copies of the annual report to qualified beneficiaries, account owners, and the

public. **A report transmitted under this section to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 158. IC 22-1-1-11, AS AMENDED BY P.L.187-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 11. The commissioner of labor is authorized and directed to do the following:

- (1) To investigate and adopt rules under IC 4-22-2 prescribing what safety devices, safeguards, or other means of protection shall be adopted for the prevention of accidents in every employment or place of employment, to determine what suitable devices, safeguards, or other means of protection for the prevention of industrial accidents or occupational diseases shall be adopted or followed in any or all employments or places of employment, and to adopt rules under IC 4-22-2 applicable to either employers or employees, or both for the prevention of accidents and the prevention of industrial or occupational diseases.
- (2) Whenever, in the judgment of the commissioner of labor, any place of employment is not being maintained in a sanitary manner or is being maintained in a manner detrimental to the health of the employees therein, to obtain any necessary technical or expert advice and assistance from the state department of health. The state department of health, upon the request of the commissioner of labor, shall furnish technical or expert advice and assistance to the commissioner and take the steps authorized or required by the health laws of the state.
- (3) Annually forward the report received from the mining board under IC 22-10-1.5-5(a)(6) to the legislative council **in an electronic format under IC 5-14-6** and request from the general assembly funding for necessary additional mine inspectors.
- (4) Administer the mine safety fund established under IC 22-10-12-16.

SECTION 159. IC 22-4-18-7, AS ADDED BY P.L.179-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7. (a) The department annually shall prepare a written report of its training activities and the training activities of the various workforce investment boards during the immediately preceding state fiscal year. The department's annual report for a particular state fiscal year must include information for each

training project for which either the department or a workforce development board provided any funding during that state fiscal year. At a minimum, the following information must be provided for such a training project:

- (1) A description of the training project, including the name and address of the training provider.
- (2) The amount of funding that either the department or a workforce investment board provided for the project and an indication of which entity provided the funding.
- (3) The number of trainees who participated in the project.
- (4) Demographic information about the trainees, including the age of each trainee, the education attainment level of each trainee, and for those training projects that have specific gender requirements, the gender of each trainee.
- (5) The results of the project, including skills developed by trainees, any license or certification associated with the training project, the extent to which trainees have been able to secure employment or obtain better employment, and descriptions of the specific jobs which trainees have been able to secure or to which trainees have been able to advance.

(b) With respect to trainees that have been able to secure employment or obtain better employment, the department of workforce development shall compile data on the retention rates of those trainees in the jobs which the trainees secured or to which they advanced. The department shall include information concerning those retention rates in each of its annual reports.

(c) On or before October 1 of each state fiscal year, each workforce investment board shall provide the department with a written report of its training activities for the immediately preceding state fiscal year. The workforce development board shall prepare the report in the manner prescribed by the department. However, at a minimum, the workforce development board shall include in its report the information required by subsection (a) for each training project for which the workforce development board provided any funding during the state fiscal year covered by the report. In addition, the workforce development board shall include in each report retention rate information as set forth in subsection (b).

(d) The department shall provide a copy of its annual report for a

particular state fiscal year to the:

- (1) governor;
- (2) legislative council; and
- (3) unemployment insurance board;

on or before December 1 of the immediately preceding state fiscal year.

An annual report provided under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 160. IC 22-4.1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. All discretionary grants awarded by the department must be reported annually **in an electronic format under IC 5-14-6** to the legislative council.

SECTION 161. IC 23-5-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10. Any and all associations or corporations organized under or having existence by virtue of this chapter shall remain subject to the control of the general assembly of the state of Indiana, and may be, by law, required and compelled to make a report of all its proceedings to any general assembly of this state, and any general assembly of this state may, by law, repeal this chapter, and require and compel the dissolution and settling up of all corporations or associations organized under this chapter within any period not less than three (3) years after the passage of such repealing law. **A report under this section to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 162. IC 23-6-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 22. Each credit corporation shall make an annual report of its condition to the governor and the general assembly before March 2 of each year. **An annual report under this section to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 163. IC 24-4.7-3-5, AS ADDED BY P.L.189-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5. (a) The division shall, after June 30 and before October 1 of each year, report to the regulatory flexibility committee established by IC 8-1-2.6-4 on the following:

- (1) For the state fiscal year ending June 30, 2002, the expenses incurred by the division in establishing the listing.
- (2) The total amount of fees deposited in the fund during the most

recent state fiscal year.

(3) The expenses incurred by the division in maintaining and promoting the listing during the most recent state fiscal year.

(4) The projected budget required by the division to comply with this article during the current state fiscal year.

(5) Any other expenses incurred by the division in complying with this article during the most recent state fiscal year.

(6) The total number of subscribers on the listing at the end of the most recent state fiscal year.

(7) The number of new subscribers added to the listing during the most recent state fiscal year.

(8) The number of subscribers removed from the listing for any reason during the most recent state fiscal year.

(b) The regulatory flexibility committee shall, before November 1 of each year, issue **in an electronic format under IC 5-14-6** a report and recommendations to the legislative council concerning the information received under subsection (a).

SECTION 164. IC 26-1-9.1-527, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 527. The secretary of state shall report annually to the general assembly on the operation of the filing office. The report **must be in an electronic format under IC 5-14-6** and must contain a statement of the extent to which:

(1) the filing office rules are not in harmony with the rules of filing offices in other jurisdictions that enact substantially IC 26-1-9.1-501 through IC 26-1-9.1-527 and the reasons for these variations; and

(2) the filing office rules are not in harmony with the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators, or any successor organization, and the reasons for these variations.

SECTION 165. IC 27-1-3-30, AS ADDED BY P.L.166-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 30. (a) As used in this section, "accident and sickness insurance policy" has the meaning set forth in IC 27-8-14.2-1.

(b) As used in this section, "health maintenance organization" has the meaning set forth in IC 27-13-1-19.

(c) As used in this section, "mandated benefit" means certain health coverage or an offering of certain health coverage that is required under:

- (1) an accident and sickness insurance policy; or
- (2) a contract with a health maintenance organization.

(d) As used in this section, "mandated benefit proposal" means a bill or resolution pending before the general assembly that, if enacted, would require certain health coverage or an offering of certain health coverage under:

- (1) an accident and sickness insurance policy; or
- (2) a contract with a health maintenance organization.

(e) The commissioner shall establish a task force to review mandated benefits and mandated benefit proposals.

(f) The task force must consist of nine (9) members appointed by the governor as follows:

- (1) Two (2) members representing the insurance industry.
- (2) Two (2) members representing consumers.
- (3) Two (2) members representing health care providers.
- (4) Two (2) members representing the business sector.
- (5) The commissioner or the commissioner's designee.

A registered lobbyist may not serve as a member of the task force.

(g) Members of the task force shall serve on a voluntary basis without reimbursement.

(h) The department shall provide administrative support for the functions of the task force.

(i) The task force shall review mandated benefits and mandated benefit proposals as determined by the members of the task force and report **in an electronic format under IC 5-14-6** to the legislative council not later than December 31 of each year.

(j) Any recommendations made by the task force must be approved by at least five (5) members of the task force.

(k) The department may adopt rules under IC 4-22-2 to implement this section.

(l) Information that identifies a person and that is obtained by the task force under this section is confidential.

SECTION 166. IC 27-1-29-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7.

(a) The commission is granted all powers necessary, convenient, or

appropriate to carry out and effectuate its public and corporate purposes under this chapter and IC 27-1-29.1 including, but not limited to, and except as otherwise restricted in this chapter or IC 27-1-29.1:

(1) The power to have perpetual existence as a body corporate and politic, and an independent instrumentality, but not a state agency, exercising essential public functions.

(2) The power to sue and be sued.

(3) The power to adopt and alter an official seal.

(4) The power to make and enforce bylaws and rules for the conduct of its business, which bylaws and rules may be adopted by the commission without complying with IC 4-22-2.

(5) The power to make contracts and incur liabilities, borrow money, issue its negotiable bonds or notes in accordance with this chapter, subject to provisions for registration of negotiable bonds and notes, and provide for and secure their payment and provide for the rights of their holders, and purchase and hold and dispose of any of its bonds or notes.

(6) The power to acquire, hold, use, and dispose of its income, revenues, funds, and money.

(7) The power to acquire, rent, lease, hold, use, and dispose of property for its purposes.

(8) The power to fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities.

(9) The power to accept gifts or grants of property, funds, money, materials, labor, supplies, or services from the United States, any governmental unit, or any person, carry out the terms or provisions or make agreements with respect to the gifts or grants, and do all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of the gifts or grants.

(10) The power to do anything authorized by this article, through its officers, agents, or employees or by contracts with a person.

(11) The power to procure insurance against any losses in connection with its property, operations, or assets in amounts and from insurers as it considers desirable.

(12) The power to cooperate with and exchange services, personnel, and information with any federal, state, or local government agency.

(b) The commission may:

- (1) implement a statewide program of loss control and risk management to minimize the liabilities of members of the fund;
- (2) contract with any persons or entities to obtain or provide the services of risk managers, actuaries, loss control specialists, attorneys, and other professionals in carrying out its powers and duties under this chapter and to pay for those services from the fund;
- (3) exercise control over the defense of members of the fund against tort claims, including the selection and retention of legal counsel, the direction of counsel in the conduct of cases, and the negotiation and acceptance or rejection of any settlement;
- (4) establish procedures by which political subdivisions can gain or regain membership and relinquish membership in the fund;
- (5) establish procedures and criteria for the imposition of assessments to be paid by members of the fund, and the payment of members' liabilities;
- (6) establish programs for the payment of money from the fund to compensate members for damage to or loss of real or personal property;
- (7) establish programs for the payment of:
 - (A) liabilities covered under IC 34-13-3 (or IC 34-4-16.5 before its repeal); and
 - (B) liabilities that are not covered under IC 34-13-3 (or IC 34-4-16.5 before its repeal), including, but not limited to, liability due to alleged violations of the Constitution of the United States or federal civil rights statutes by law enforcement officers;
- (8) establish programs by which members can protect their elected officers and employees against liability arising from their alleged errors or omissions;
- (9) establish procedures by which a member of the fund can settle small claims that are within the deductible provision of coverage under the fund;
- (10) capitalize the fund by levying against each member of the fund an annual surcharge over and above the assessment imposed against the member under section 12 of this chapter; and
- (11) establish any other programs or procedures the commission

considers necessary for the implementation of this chapter.

The amount of the surcharge levied against a member of the fund for a particular year under subdivision (10) may not exceed twenty-five percent (25%) of the member's assessment for the same year.

(c) The commission shall file a report **in an electronic format under IC 5-14-6** with the ~~members of the~~ general assembly each year concerning the operations of the commission and the condition of the fund.

SECTION 167. IC 27-6-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1.

(a) In order to obtain for the citizens of the state of Indiana and for their insurers the benefit of federal reinsurance against property losses resulting from riots and civil disorders, as provided in the Urban Property Protection and Reinsurance Act of 1968 (12 U.S.C. 1749bbb et seq.), the state of Indiana is hereby authorized to cooperate with the United States government and its Secretary of Housing and Urban Development. The Indiana insurance commissioner is hereby designated as the state agency to cooperate with the federal government pursuant to that act.

(b) The insurance commissioner shall annually report to the general assembly on the statewide plan to assure fair access to insurance requirements (FAIR plan, as provided in 12 U.S.C. 1749bbb-3). The report must be submitted no later than November 1 of each year. The report must contain information concerning the classes of coverage provided under the plan during the preceding year and any other information requested by the general assembly. **The report must be in an electronic format under IC 5-14-6.**

SECTION 168. IC 27-8-10-2.3, AS ADDED BY P.L.167-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2.3. A member shall, not later than October 31 of each year, certify an independently audited report to the:

- (1) association;
- (2) legislative council; and
- (3) department of insurance;

of the amount of tax credits taken against assessments by the member under section 2.1(n)(1) of this chapter during the previous calendar year. **A report certified under this section to the legislative council**

must be in an electronic format under IC 5-14-6.

SECTION 169. IC 33-1-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7.

The commission on courts shall do the following:

(1) Review and report on all requests for new courts or changes in jurisdiction of existing courts. A request for review under this subdivision must be received by the commission not later than July 1 of each year. A request received after July 1 may not be considered unless a majority of the commission members agree to consider the request.

(2) Conduct research concerning requests for new courts or changes in jurisdiction of existing courts. This research may include the conduct of surveys sampling members of the bar, members of the judiciary, and local officials to determine needs and problems.

(3) Conduct public hearings throughout Indiana concerning requests for new courts or changes in jurisdiction of existing courts. The commission shall hold at least one (1) public hearing on each request presented to the commission.

(4) Review and report on any other matters relating to court administration that the commission determines appropriate, including the following:

(A) Court fees.

(B) Court personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(C) Salaries of court officers and personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(D) Jury selection.

(E) Any other issues relating to the operation of the courts.

(5) Submit a report **in an electronic format under IC 5-14-6** before November 1 of each year to the general assembly that includes the following:

(A) A recommendation on all requests considered by the commission during the preceding year for the creation of new courts or changes in the jurisdiction of existing courts.

(B) If the commission recommends the creation of new courts or changes in jurisdiction of existing courts, the following:

- (i) A draft of legislation implementing the changes.
- (ii) A fiscal analysis of the cost to the state and local governments of implementing recommended changes.
- (iii) Summaries of any research supporting the recommended changes.
- (iv) Summaries of public hearings held concerning the recommended changes.

(C) A recommendation on any issues considered by the commission under subdivision (4).

SECTION 170. IC 33-2.1-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5. The reports required by section 3(a)(3) of this chapter shall be directed to the commission on judicial qualifications, the chief justice of the state, the clerk of the supreme court, and the ~~Indiana~~ legislative council, and shall be accessible to the judicial officers of the various courts and to the general public. The reports shall be titled "The Indiana Judicial Report". **A report directed under this section to the legislative council must be in an electronic format under IC 5-14-6.**

SECTION 171. IC 33-2.1-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7. The committee shall submit a report to the supreme court administrator and to the legislative services agency not later than August 1 of each year. **A report submitted under this section to the legislative services agency must be in an electronic format under IC 5-14-6.**

SECTION 172. IC 33-9-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) The commission shall do the following:

(1) Make recommendations to the supreme court of Indiana concerning standards for indigent defense services provided for defendants against whom the state has sought the death sentence under IC 35-50-2-9, including the following:

- (A) Determining indigency and eligibility for legal representation.
- (B) Selection and qualifications of attorneys to represent indigent defendants at public expense.
- (C) Determining conflicts of interest.
- (D) Investigative, clerical, and other support services necessary to provide adequate legal representation.

(2) Adopt guidelines and standards for indigent defense services under which the counties will be eligible for reimbursement under IC 33-9-14, including but not limited to the following:

(A) Determining indigency and the eligibility for legal representation.

(B) The issuance and enforcement of orders requiring the defendant to pay for the costs of court appointed legal representation under IC 33-9-11.5.

(C) The use and expenditure of funds in the county supplemental public defender services fund established by IC 33-9-11.5.

(D) Qualifications of attorneys to represent indigent defendants at public expense.

(E) Compensation rates for salaried, contractual, and assigned counsel.

(F) Minimum and maximum caseloads of public defender offices and contract attorneys.

(3) Make recommendations concerning the delivery of indigent defense services in Indiana.

(4) Make an annual report to the governor, the general assembly, and the supreme court on the operation of the public defense fund.

A report made under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.

SECTION 173. IC 33-20-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. The board shall file a report with:

(1) the governor;

(2) the legislative council; and

(3) the chief justice of the supreme court;

before December 31 of each year. **A report filed under this section with the legislative council must be in an electronic format under IC 5-14-6.**

SECTION 174. IC 34-52-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6.

(a) Each agency subject to an order to pay fees or expenses or that pays fees or other expenses under this chapter shall report annually **in an electronic format under IC 5-14-6** to the general assembly the amount of fees and other expenses ordered or paid during the preceding

fiscal year by that agency.

(b) In its report, the agency shall describe:

- (1) the number, nature, and amount of the awards;
- (2) the claims involved in the controversy; and
- (3) any other relevant information to aid the general assembly in evaluating the scope and impact of these awards.

SECTION 175. IC 34-57-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 13. The chief justice of Indiana shall prepare and submit an annual report to the governor and the general assembly that evaluates and makes recommendations concerning the operation and success of the centers funded under this chapter. **A report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.**

SECTION 176. IC 35-33.5-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4.

(a) Not later than December 31 of each year, a prosecuting attorney who during that year:

- (1) has received a warrant or an extension; or
- (2) represents a county in which an arrest or a conviction has occurred as the result of the warrant or extension;

shall report **in an electronic format under IC 5-14-6** the information described in subsection (b) to the legislative council.

(b) A prosecuting attorney shall report the following information under subsection (a):

- (1) The information required in section 5 of this chapter.
- (2) The number of arrests resulting from an interception made under a warrant or extension and the designated offense for which each arrest was made.
- (3) The number of charges filed as a result of an interception.
- (4) The number of motions to suppress made with respect to an interception and the number of motions granted or denied.
- (5) The number of convictions resulting from an interception, the designated offense for which each conviction was obtained, and a general assessment of the importance of interception in obtaining the convictions.
- (6) A general description of the interceptions made under a warrant or an extension, including the following:

(A) The approximate nature and frequency of incriminating communications intercepted.

(B) The approximate nature and frequency of other communications intercepted.

(C) The approximate number of persons whose communications were intercepted.

(D) The approximate nature, amount, and cost of manpower and other resources used in relation to the interceptions.

SECTION 177. IC 35-47-7-6, AS ADDED BY P.L.96-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 6. (a) The:

(1) practitioner (as defined in IC 25-1-9-2) who initially treats a person for an injury that the practitioner has identified as resulting from fireworks or pyrotechnics; or

(2) administrator or the administrator's designee of the hospital or outpatient surgical center if a person is initially treated in a hospital or an outpatient surgical center for an injury that the administrator has identified as resulting from fireworks or pyrotechnics;

shall report the case to the state health data center of the state department of health not more than five (5) business days after the time the person is treated. The report may be made in writing on a form prescribed by the state department of health.

(b) A person submitting a report under subsection (a) shall make a reasonable attempt to include the following information:

(1) The name, address, and age of the injured person.

(2) The date and time of the injury and the location where the injury occurred.

(3) If the injured person was less than eighteen (18) years of age, whether an adult was present when the injury occurred.

(4) Whether the injured person consumed alcoholic beverages within three (3) hours before the injury occurred.

(5) A description of the firework or pyrotechnic that caused the injury.

(6) The nature and extent of the injury.

(c) A report made under this section is considered confidential for purposes of IC 5-14-3-4(a)(1).

(d) The state department of health shall compile the data collected

under this section and submit **in an electronic format under IC 5-14-6** a report of the compiled data to the legislative council not later than December 31, 2004.

(e) This section expires January 1, 2005.

SECTION 178. IC 35-48-2-1, AS AMENDED BY P.L.107-2002, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. (a) The board shall administer this article and may recommend to the general assembly the addition, deletion, or rescheduling of all substances listed in the schedules in sections 4, 6, 8, 10, and 12 of this chapter by submitting **in an electronic format under IC 5-14-6** a report of such recommendations to the legislative council. In making a determination regarding a substance, the board shall consider the following:

- (1) The actual or relative potential for abuse.
- (2) The scientific evidence of its pharmacological effect, if known.
- (3) The state of current scientific knowledge regarding the substance.
- (4) The history and current pattern of abuse.
- (5) The scope, duration, and significance of abuse.
- (6) The risk to public health.
- (7) The potential of the substance to produce psychic or physiological dependence liability.
- (8) Whether the substance is an immediate precursor of a substance already controlled under this article.

(b) After considering the factors enumerated in subsection (a), the board shall make findings and recommendations concerning the control of the substance if it finds the substance has a potential for abuse.

(c) If the board finds that a substance is an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated or rescheduled to a more restrictive schedule as a controlled substance under federal law and notice is given to the board, the board shall recommend similar control of the substance under this article in the board's report to the general assembly, unless the board objects to inclusion or rescheduling. In that case, the board shall publish the reasons for objection and afford all

interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall publish its findings.

(e) If a substance is rescheduled to a less restrictive schedule or deleted as a controlled substance under federal law, the substance is rescheduled or deleted under this article. If the board objects to inclusion, rescheduling, or deletion of the substance, the board shall notify the chairman of the legislative council not more than thirty (30) days after the federal law is changed and the substance may not be rescheduled or deleted until the conclusion of the next complete session of the general assembly. The notice from the board to the chairman of the legislative council must be published.

(f) There is established a sixteen (16) member controlled substances advisory committee to serve as a consultative and advising body to the board in all matters relating to the classification, reclassification, addition to, or deletion from of all substances classified as controlled substances in schedules I to IV or substances not controlled or yet to come into being. In addition, the advisory committee shall conduct hearings and make recommendations to the board regarding revocations, suspensions, and restrictions of registrations as provided in IC 35-48-3-4. All hearings shall be conducted in accordance with IC 4-21.5-3. The advisory committee shall be made up of:

- (1) two (2) physicians licensed under IC 25-22.5, one (1) to be elected by the medical licensing board of Indiana from among its members and one (1) to be appointed by the governor;
- (2) two (2) pharmacists, one (1) to be elected by the state board of pharmacy from among its members and one (1) to be appointed by the governor;
- (3) two (2) dentists, one (1) to be elected by the state board of dentistry from among its members and one (1) to be appointed by the governor;
- (4) the state toxicologist or the designee of the state toxicologist;
- (5) two (2) veterinarians, one (1) to be elected by the state board of veterinary medical examiners from among its members and one (1) to be appointed by the governor;
- (6) one (1) podiatrist to be elected by the board of podiatric medicine from among its members;
- (7) one (1) advanced practice nurse with authority to prescribe legend drugs as provided by IC 25-23-1-19.5 who is:

(A) elected by the state board of nursing from among the board's members; or

(B) if a board member does not meet the requirements under IC 25-23-1-19.5 at the time of the vacancy on the advisory committee, appointed by the governor;

(8) the superintendent of the state police department or the superintendent's designee;

(9) three (3) members appointed by the governor who have demonstrated expertise concerning controlled substances; and

(10) one (1) member appointed by the governor who is a psychiatrist with expertise in child and adolescent psychiatry.

(g) All members of the advisory committee elected by a board shall serve a term of one (1) year and all members of the advisory committee appointed by the governor shall serve a term of four (4) years. Any elected or appointed member of the advisory committee, may be removed for cause by the authority electing or appointing the member. If a vacancy occurs on the advisory committee, the authority electing or appointing the vacating member shall elect or appoint a successor to serve the unexpired term of the vacating member. The board shall acquire the recommendations of the advisory committee pursuant to administration over the controlled substances to be or not to be included in schedules I to V, especially in the implementation of scheduled substances changes as provided in subsection (d).

(h) Authority to control under this section does not extend to distilled spirits, wine, or malt beverages, as those terms are defined or used in IC 7.1, or to tobacco.

(i) The board shall exclude any nonnarcotic substance from a schedule if that substance may, under the Federal Food, Drug, and Cosmetic Act or state law, be sold over the counter without a prescription.

SECTION 179. IC 36-2-9-20, AS AMENDED BY P.L.245-2003, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 20. The county auditor shall:

(1) maintain an electronic data file of the information contained on the tax duplicate for all:

(A) parcels; and

(B) personal property returns;

for each township in the county as of each assessment date;

- (2) maintain the file in the form required by:
 - (A) the legislative services agency; and
 - (B) the department of local government finance; and
- (3) transmit the data in the file with respect to the assessment date of each year before March 1 of the next year to:
 - (A) the legislative services agency **in an electronic format under IC 5-14-6**; and
 - (B) the department of local government finance.

SECTION 180. IC 36-7-11.5-10, AS ADDED BY P.L.92-2003, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 10. (a) The commission shall prepare an annual report concerning the fund and submit the report **in an electronic format under IC 5-14-6** to the legislative council before October 1 of each year.

- (b) The annual report must include the following:
 - (1) A list of the projects completed during the preceding calendar year for which funds were distributed under section 9 of this chapter.
 - (2) If applicable, evidence of compliance with the United States Secretary of the Interior's standards for historic rehabilitation.
 - (3) A list of the projects related to the restoration, repair, or maintenance of the exterior, interior, and landscape features of the historic hotels located in the historic hotel district.
 - (4) A list of the projects that may be initiated in the ensuing calendar year related to the restoration, repair, or maintenance of the exterior, interior, and landscape features of the historic hotels located in the historic hotel district.

SECTION 181. IC 36-7-13.5-11, AS AMENDED BY P.L.1-2002, SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 11. The commission shall:

- (1) identify qualifying properties;
- (2) prepare a comprehensive master plan for development and redevelopment within the corridor that:
 - (A) plans for remediation of environmental contamination;
 - (B) accounts for economic development and transportation issues relating to environmental contamination; and
 - (C) establishes priorities for development or redevelopment of

qualifying properties;

- (3) establish guidelines for the evaluation of applications for grants from the fund;
- (4) after reviewing a report from the department of environmental management under section 22 of this chapter, refer to the executive committee applications for grants from the fund under section 21 of this chapter that the commission recommends for approval;
- (5) prepare and provide information to political subdivisions on the availability of financial assistance from the fund;
- (6) coordinate the implementation of the comprehensive master plan;
- (7) monitor the progress of implementation of the comprehensive master plan;
- (8) report at least annually to the governor, the lieutenant governor, the legislative council, and all political subdivisions that have territory within the corridor on:
 - (A) the activities of the commission; and
 - (B) the progress of implementation of the comprehensive master plan; and
- (9) employ an executive director and other individuals that are necessary to carry out the commission's duties.

An annual report under subdivision (8) to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 182. IC 36-7-23-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 50. The board shall, at the close of each fiscal year, submit **in an electronic format under IC 5-14-6** an annual report of its activities for the preceding year to the legislative council. Each member of the general assembly may receive a copy of the report by submitting a request to the executive director of the legislative council.

SECTION 183. IC 12-14-24-10 IS REPEALED [EFFECTIVE JULY 1, 2003 (RETROACTIVE)].

SECTION 184. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: P.L.238-1986; P.L.109-1997, SECTION 4; P.L.149-1999, SECTION 1; P.L.24-2003, SECTION 3.

SECTION 185. P.L.291-2001, SECTION 128, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003

(RETROACTIVE)]: SECTION 128. (a) There is created the civil war flags commission.

(b) The powers and duties of the civil war flags commission are as follows:

- (1) Solicit donations from school children and businesses for the purpose of restoring and preserving civil war flags.
- (2) Accept donations from organizations and individuals for the purpose of restoring and preserving civil war flags.
- (3) Coordinate fund raising activities for the purpose of restoring and preserving the civil war flags.
- (4) Deposit receipts from donations and other sources in the civil war flags fund ~~(IC 10-7-2-6.5)~~. **(IC 10-18-1-14)**.
- (5) Advise the Indiana war memorials commission on the use of money in the civil war flags fund ~~(IC 10-7-2-6.5)~~. **(IC 10-18-1-14)**.

(c) The civil war flag commission consists of the following persons appointed as follows:

- (1) Two (2) members of the house of representatives, not more than one (1) of whom may be from the same political party, appointed by the speaker of the house of representatives. The members appointed under this subdivision are nonvoting members of the commission.
- (2) Two (2) members of the senate, not more than one (1) of whom may be from the same political party, appointed by the president pro tempore of the senate. The members appointed under this subdivision are nonvoting members of the commission.
- (3) Two (2) members of a Civil War Round Table organization appointed by the governor.
- (4) One (1) member of the Indiana war memorials commission ~~(IC 10-7-2-1)~~ **(IC 10-18-1-2)** appointed by the governor.
- (5) Two (2) members of the Save the Colors Coalition appointed by the governor.
- (6) One (1) member of the Sons of Union Veterans appointed by the governor.
- (7) One (1) member of the veterans affairs commission ~~(IC 10-5-1-5)~~ **(IC 10-17-1-3)** appointed by the governor.
- (8) Two (2) members of the general public appointed by the governor.

(9) Six (6) students from ten (10) to nineteen (19) years of age appointed by the governor upon the recommendation of the civil war flags commission. The commission shall base its recommendations to the governor upon the results of an essay contest that the commission shall establish and judge. The members appointed under this subdivision are nonvoting members of the commission.

(d) The commission shall organize itself and elect those officers that it considers necessary to accomplish the purposes of the commission. A nonvoting member of the commission may serve as an officer of the commission.

(e) The civil war flags commission shall be organized as a nonprofit organization and may not spend more than two percent (2%) of the funds collected on administrative costs, including soliciting for additional funds. There is continuously appropriated from the civil war flags fund established under ~~IC 10-7-2-6.5~~ **IC 10-18-1-14** to the civil war flags commission an amount sufficient to pay for those administrative costs of the civil war flags commission that does not exceed two percent (2%) of the funds collected by the civil war flags commission and deposited in the civil war flags fund.

(f) The civil war flags commission shall report **in an electronic format under IC 5-14-6** to the legislative council on the commission's activities by November 1 of each year.

(g) Any state funds appropriated to the Indiana war memorials commission (~~IC 10-7-2-1~~) (**IC 10-18-1-2**) that are subject to reversion at the end of the state fiscal year, not to exceed fifty thousand dollars (\$50,000), do not revert to the state general fund but are appropriated to the civil war flags fund established under ~~IC 10-7-2-6.5~~ **IC 10-18-1-14**. The funds shall be deposited in the civil war flags fund within sixty (60) days of the end of the state fiscal year.

(h) This SECTION expires July 1, 2006.

SECTION 186. P.L.28-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 1. (a) The rail corridor safety committee is established.

(b) The committee consists of eight (8) members as follows:

(1) Four (4) members of the house of representatives appointed by the speaker of the house of representatives. Not more than two (2)

members appointed under this subdivision may represent the same political party.

(2) Four (4) members of the senate appointed by the president pro tempore of the senate. Not more than two (2) members appointed under this subdivision may represent the same political party.

(c) The chairman of the legislative council shall designate one (1) member of the committee to be chairperson of the committee.

(d) Each member of the committee appointed under subsection (b)(1) or (b)(2) is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on legislative study committees established by the legislative council.

(e) The committee shall do the following:

(1) Study the safety of rail corridors, including corridors at overpasses, underpasses, and crossings.

(2) Review railroad safety records.

(3) Study methods of encouraging cooperation among the railroads, local government, state government, and federal government to enhance the safety of railroads.

(4) Study other topics as assigned by the legislative council.

(f) The committee shall issue a final report to the legislative council regarding the matters listed under subsection (e) before November 1, 2005. **The report must be in an electronic format under IC 5-14-6.**

(g) The committee is under the jurisdiction of the legislative council and shall operate under policies and procedures established by the legislative council.

(h) Staff and administrative support for the committee shall be provided by the legislative services agency.

(i) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(j) This SECTION expires November 1, 2005.

SECTION 187. P.L.220-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 1. (a) As used in this SECTION, "commission" refers to the Indiana commission on excellence in health care established by subsection (d).

(b) As used in this SECTION, "health care professional" has the meaning set forth in IC 16-27-1-1.

(c) As used in this SECTION, "health care provider" includes the following:

- (1) A hospital or an ambulatory outpatient surgical center licensed under IC 16-21.
- (2) A hospice program (as defined in IC 16-25-1.1-4).
- (3) A home health agency licensed under IC 16-27-1.
- (4) A health facility licensed under IC 16-28.

(d) There is established the Indiana commission on excellence in health care.

(e) The commission consists of the following members:

- (1) Four (4) members appointed from the house of representatives by the speaker of the house of representatives. Not more than two (2) of the members appointed under this subdivision may be members of the same political party.
- (2) Four (4) members appointed from the senate by the president pro tempore of the senate. Not more than two (2) of the members appointed under this subdivision may be members of the same political party.
- (3) The governor or the governor's designee.
- (4) The state health commissioner appointed under IC 16-19-4-2 or the commissioner's designee.
- (5) One (1) member appointed by the governor who is a former dean or former faculty member of the Indiana University School of Medicine.
- (6) One (1) member appointed by the governor who is a former dean or former faculty member of an Indiana school of nursing.
- (7) One (1) member appointed by the governor who is a health care provider or a representative for individuals who have both a mental illness and a developmental disability.

(f) The commission shall operate under the rules of the legislative council. The commission shall meet upon the call of the chairperson.

(g) The affirmative votes of at least seven (7) voting members of the commission are required for the commission to take any action, including the approval of a final report.

(h) The speaker of the house of representatives shall appoint the chairperson of the commission during odd-numbered years beginning January 1. The president pro tempore of the senate shall appoint the chairperson of the commission during even-numbered years beginning

January 1.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(j) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

(l) The legislative services agency shall provide staff to support the commission. The legislative services agency is not required to provide staff assistance to the subcommittees of the commission except to the extent the subcommittees require copying services.

(m) The expenses of the commission shall be paid from funds appropriated to the legislative services agency.

(n) The commission shall study the quality of health care, including mental health, and develop a comprehensive statewide strategy for improving the health care delivery system. The commission shall do the following:

- (1) Identify existing data sources that evaluate quality of health care in Indiana and collect, analyze, and evaluate this data.
- (2) Establish guidelines for data sharing and coordination.
- (3) Identify core sets of quality measures for standardized reporting by appropriate components of the health care continuum.
- (4) Recommend a framework for quality measurement and outcome reporting.
- (5) Develop quality measures that enhance and improve the

ability to evaluate and improve care.

(6) Make recommendations regarding research and development needed to advance quality measurement and reporting.

(7) Evaluate regulatory issues relating to the pharmacy profession and recommend changes necessary to optimize patient safety.

(8) Facilitate open discussion of a process to ensure that comparative information on health care quality is valid, reliable, comprehensive, understandable, and widely available in the public domain.

(9) Sponsor public hearings to share information and expertise, identify best practices, and recommend methods to promote their acceptance.

(10) Evaluate current regulatory programs to determine what changes, if any, need to be made to facilitate patient safety.

(11) Review public and private health care purchasing systems to determine if there are sufficient mandates and incentives to facilitate continuous improvement in patient safety.

(12) Analyze how effective existing regulatory systems are in ensuring continuous competence and knowledge of effective safety practices.

(13) Develop a framework for organizations that license, accredit, or credential health care professionals and health care providers to more quickly and effectively identify unsafe providers and professionals and to take action necessary to remove an unsafe provider or professional from practice or operation until the professional or provider has proven safe to practice or operate.

(14) Recommend procedures for development of a curriculum on patient safety and methods of incorporating the curriculum into training, licensure, and certification requirements.

(15) Develop a framework for regulatory bodies to disseminate information on patient safety to health care professionals, health care providers, and consumers through conferences, journal articles and editorials, newsletters, publications, and Internet websites.

(16) Recommend procedures to incorporate recognized patient safety considerations into practice guidelines and into standards related to the introduction and diffusion of new technologies, therapies, and drugs.

(17) Recommend a framework for development of community based collaborative initiatives for error reporting and analysis and implementation of patient safety improvements.

(18) Evaluate the role of advertising in promoting or adversely affecting patient safety.

(19) Evaluate and make recommendations regarding the need for licensure of additional persons who participate in the delivery of health care to Indiana residents.

(20) Evaluate the benefits and problems of the current disciplinary systems and make recommendations regarding alternatives and improvements.

(21) Study and make recommendations concerning the long term care system, including self-directed care plans and the regulation and reimbursement of public and private facilities that provide long term care.

(22) Study any other topic required by the chairperson.

(o) The commission may create subcommittees to study topics, receive testimony, and prepare reports on topics assigned by the commission. The chairperson shall select from the topics listed under subsection (n) the topics to be studied by the commission and subcommittees each year. The chairperson shall appoint persons to act as chairperson and secretary of each subcommittee. The commission shall by majority vote appoint members to each subcommittee. A member of a subcommittee, including a commission member while serving on a subcommittee, is not entitled to per diem, mileage, or travel allowances.

(p) The commission shall submit:

(1) interim reports not later than October 1, 2001, and October 1, 2002; and

(2) a final report not later than October 1, 2003;

to the governor, members of the health finance commission, and the legislative council. With the consent of the chairperson of the commission and the chairperson of the health finance commission, the commission and the health finance commission may conduct joint meetings. **A final report submitted under this subsection to the legislative council must be in an electronic format under IC 5-14-6.**

(q) This SECTION expires July 1, 2004.

SECTION 188. P.L.248-2001, SECTION 4, IS AMENDED TO

READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 4. (a) As used in this SECTION, "council" refers to the environmental quality service council established by subsection (c).

(b) As used in this SECTION, "department" refers to the department of environmental management.

(c) The environmental quality service council is established.

(d) The council consists of seventeen (17) voting members and one (1) nonvoting member as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) The:

(A) commissioner of the department; or

(B) commissioner's designee;

who serves as a nonvoting member.

(4) Nine (9) individuals who are not members of the general assembly and who are appointed by the governor as follows:

(A) Two (2) individuals representing business and industry, not more than one (1) of whom may be affiliated with the same political party.

(B) Two (2) individuals representing local government, one (1) of whom may be a solid waste management district director and not more than one (1) of whom may be affiliated with the same political party.

(C) Two (2) individuals representing environmental interests, one (1) of whom may be a solid waste management district director and not more than one (1) of whom may be affiliated with the same political party.

(D) One (1) individual representing the general public.

(E) Two (2) individuals representing the following interests:

(i) One (1) representative of semipublic permittees.

(ii) One (1) representative of agriculture.

Until an appointment is made under clause (A), (B), (C), (D), or

(E), an unfilled position shall be held by the corresponding member of the environmental quality service council serving on December 31, 2000, who was appointed under P.L.248-1996, SECTION 1(d)(4) to represent the same interest as must be represented by the person appointed to the unfilled position.

(e) Appointments are valid for two (2) years after the date of the appointment. However, a member shall serve on the council until a new appointment is made.

(f) If a vacancy occurs among the members of the council, the appointing authority of the member whose position is vacant shall fill the vacancy by appointment. If the appointing authority does not fill a vacancy within sixty (60) days after the date the vacancy occurs, the vacancy shall be filled by appointment by the chairman of the legislative council.

(g) The chairman of the legislative council shall designate a member of the council to be the chairman of the council.

(h) The chairman of the council shall call for the council to meet at least one (1) time during a calendar year. The chairman may designate subcommittees to meet between committee meetings and report back to the full council.

(i) Each member of the council is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, on interim study committees established by the legislative council.

(j) The council shall do the following:

- (1) Study issues designated by the legislative council.
- (2) Advise the commissioner of the department on policy issues decided upon by the council.
- (3) Review the mission and goals of the department and evaluate the implementation of the mission.
- (4) Serve as a council of the general assembly to evaluate:
 - (A) resources and structural capabilities of the department to meet the department's priorities; and
 - (B) program requirements and resource requirements for the department.
- (5) Serve as a forum for citizens, the regulated community, and legislators to discuss broad policy directions.
- (6) Submit a final report to the legislative council that contains at

least the following:

- (A) An outline of activities of the council.
- (B) Recommendations for any department action.
- (C) Recommendations for any legislative action.

(k) The commissioner of the department shall report to the council each month concerning the following:

- (1) Permitting programs and technical assistance.
- (2) Proposed rules and rulemaking in progress.
- (3) The financial status of the department.
- (4) Any additional matter requested by the council.

(l) The council shall:

- (1) operate under procedures; and
- (2) issue reports and recommendations;

as directed by the legislative council.

(m) The legislative services agency shall provide staff support to the council.

(n) A report submitted under this SECTION to the legislative council must be in an electronic format under IC 5-14-6.

(o) This SECTION expires December 31, 2005.

SECTION 189. P.L.137-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 5. (a) As used in this SECTION, "commission" refers to the Indiana commission on excellence in health care established by subsection (d).

(b) As used in this SECTION, "health care professional" has the meaning set forth in IC 16-27-1-1.

(c) As used in this SECTION, "health care provider" includes the following:

- (1) A hospital or an ambulatory outpatient surgical center licensed under IC 16-21.
- (2) A hospice program (as defined in IC 16-25-1.1-4).
- (3) A home health agency licensed under IC 16-27-1.
- (4) A health facility licensed under IC 16-28.

(d) There is established the Indiana commission on excellence in health care.

(e) The commission consists of the following members:

- (1) Four (4) members appointed from the house of representatives by the speaker of the house of representatives. Not more than two

(2) of the members appointed under this subdivision may be members of the same political party.

(2) Four (4) members appointed from the senate by the president pro tempore of the senate. Not more than two (2) of the members appointed under this subdivision may be members of the same political party.

(3) The governor or the governor's designee.

(4) The state health commissioner appointed under IC 16-19-4-2 or the commissioner's designee.

(5) One (1) member appointed by the governor who is a former dean or former faculty member of the Indiana University School of Medicine.

(6) One (1) member appointed by the governor who is a former dean or former faculty member of an Indiana school of nursing.

(7) One (1) member appointed by the governor who is a health care provider or a representative for individuals who have both a mental illness and a developmental disability.

(f) The commission shall operate under the rules of the legislative council. The commission shall meet upon the call of the chairperson.

(g) The affirmative votes of at least seven (7) voting members of the commission are required for the commission to take any action, including the approval of a final report.

(h) The speaker of the house of representatives shall appoint the chairperson of the commission during odd-numbered years beginning January 1. The president pro tempore of the senate shall appoint the chairperson of the commission during even-numbered years beginning January 1.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(j) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's

duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

(l) The legislative services agency shall provide staff to support the commission. The legislative services agency is not required to provide staff assistance to the subcommittees of the commission except to the extent the subcommittees require copying services.

(m) The expenses of the commission shall be paid from funds appropriated to the legislative services agency.

(n) The commission shall study the quality of health care, including mental health, and develop a comprehensive statewide strategy for improving the health care delivery system. The commission shall do the following:

- (1) Identify existing data sources that evaluate quality of health care in Indiana and collect, analyze, and evaluate this data.
- (2) Establish guidelines for data sharing and coordination.
- (3) Identify core sets of quality measures for standardized reporting by appropriate components of the health care continuum.
- (4) Recommend a framework for quality measurement and outcome reporting.
- (5) Develop quality measures that enhance and improve the ability to evaluate and improve care.
- (6) Make recommendations regarding research and development needed to advance quality measurement and reporting.
- (7) Evaluate regulatory issues relating to the pharmacy profession and recommend changes necessary to optimize patient safety.
- (8) Facilitate open discussion of a process to ensure that comparative information on health care quality is valid, reliable, comprehensive, understandable, and widely available in the public domain.
- (9) Sponsor public hearings to share information and expertise, identify best practices, and recommend methods to promote their acceptance.

- (10) Evaluate current regulatory programs to determine what changes, if any, need to be made to facilitate patient safety.
- (11) Review public and private health care purchasing systems to determine if there are sufficient mandates and incentives to facilitate continuous improvement in patient safety.
- (12) Analyze how effective existing regulatory systems are in ensuring continuous competence and knowledge of effective safety practices.
- (13) Develop a framework for organizations that license, accredit, or credential health care professionals and health care providers to more quickly and effectively identify unsafe providers and professionals and to take action necessary to remove an unsafe provider or professional from practice or operation until the professional or provider has proven safe to practice or operate.
- (14) Recommend procedures for development of a curriculum on patient safety and methods of incorporating the curriculum into training, licensure, and certification requirements.
- (15) Develop a framework for regulatory bodies to disseminate information on patient safety to health care professionals, health care providers, and consumers through conferences, journal articles and editorials, newsletters, publications, and Internet websites.
- (16) Recommend procedures to incorporate recognized patient safety considerations into practice guidelines and into standards related to the introduction and diffusion of new technologies, therapies, and drugs.
- (17) Recommend a framework for development of community based collaborative initiatives for error reporting and analysis and implementation of patient safety improvements.
- (18) Evaluate the role of advertising in promoting or adversely affecting patient safety.
- (19) Evaluate and make recommendations regarding the need for licensure of additional persons who participate in the delivery of health care to Indiana residents.
- (20) Evaluate the benefits and problems of the current disciplinary systems and make recommendations regarding alternatives and improvements.
- (21) Study and make recommendations concerning the long term

care system, including self-directed care plans and the regulation and reimbursement of public and private facilities that provide long term care.

(22) Study and make recommendations concerning increasing the number of:

- (1) nurses;
- (2) respiratory care practitioners;
- (3) speech pathologists; and
- (4) dental hygienists.

(23) Study any other topic required by the chairperson.

(o) The commission may create subcommittees to study topics, receive testimony, and prepare reports on topics assigned by the commission. The chairperson shall select from the topics listed under subsection (n) the topics to be studied by the commission and subcommittees each year. The chairperson shall appoint persons to act as chairperson and secretary of each subcommittee. The commission shall by majority vote appoint initial members to each subcommittee. Each subcommittee may by a majority vote of the members appointed to the subcommittee make a recommendation to the commission to appoint additional members to the subcommittee. The commission may by a majority vote of the members appointed to the commission appoint or remove members of a subcommittee. A member of a subcommittee, including a commission member while serving on a subcommittee, is not entitled to per diem, mileage, or travel allowances.

(p) The commission shall submit:

- (1) interim reports not later than October 1, 2001, and October 1, 2002; and
- (2) a final report not later than October 1, 2003;

to the governor, members of the health finance commission, and the legislative council. With the consent of the chairperson of the commission and the chairperson of the health finance commission, the commission and the health finance commission may conduct joint meetings. **A final report submitted under this subsection to the legislative council must be in an electronic format under IC 5-14-6.**

(q) This SECTION expires July 1, 2004.

SECTION 190. P.L.167-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 2. (a) As used in this SECTION,

"association" has the meaning set forth in IC 27-8-10-1.

(b) As used in this SECTION, "association policy" has the meaning set forth in IC 27-8-10-1.

(c) As used in this SECTION, "insured" has the meaning set forth in IC 27-8-10-1.

(d) Beginning December 1, 2002, not later than December 31 of each calendar year, the association shall report the following information for the immediately preceding calendar year to the legislative council and the department of insurance:

(1) The rate of turnover of insureds.

(2) The percentage of premiums for association policies that are paid by the following:

(A) An insured.

(B) A third party.

(3) The amount that each individual association member is:

(A) assessed under IC 27-8-10-2.1(g); and

(B) able to take in tax credits under IC 27-8-10-2.1(n).

(4) The impact of insuring federally eligible individuals under association policies.

(e) A report under this SECTION to the legislative council must be in an electronic format under IC 5-14-6.

(f) This SECTION expires June 30, 2005.

SECTION 191. P.L.11-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 3. (a) As used in this SECTION, "division" refers to the division of mental health and addiction.

(b) Except as provided in subsection (c), notwithstanding IC 12-23-1-6(4), IC 12-23-14-7, and 440 IAC 4.4-2-1(e), the division may not grant specific approval to be a new provider of any of the following:

(1) Methadone.

(2) Levo-alpha-cetylmethadol.

(3) Levo-alpha-acetylmethadol.

(4) Levomethadyl acetate.

(5) LAAM.

(6) Buprenorphine.

(c) The division may not grant specific approval to be a new provider of one (1) or more of the drugs listed under subsection (b)

unless:

- (1) the drugs will be provided in a county with a population of more than forty thousand (40,000);
- (2) there are no other providers located in the county or in a county contiguous to the county where the provider will provide the drugs; and
- (3) the provider supplies, in writing:
 - (A) a needs assessment for Indiana citizens under guidelines established by the division; and
 - (B) any other information required by the division.
- (d) Except as provided in subsection (k), the division shall prepare a report by June 30 of each year concerning treatment offered by methadone providers that contains the following information:
 - (1) The number of methadone providers in the state.
 - (2) The number of patients on methadone during the previous year.
 - (3) The length of time each patient received methadone and the average length of time all patients received methadone.
 - (4) The cost of each patient's methadone treatment and the average cost of methadone treatment.
 - (5) The rehabilitation rate of patients who have undergone methadone treatment.
 - (6) The number of patients who have become addicted to methadone.
 - (7) The number of patients who have been rehabilitated and are no longer on methadone.
 - (8) The number of individuals, by geographic area, who are on a waiting list to receive methadone.
 - (9) Patient information as reported to a central registry created by the division.
- (e) Each methadone provider in the state shall provide information requested by the division for the report under subsection (d). The information provided to the division may not reveal the specific identity of a patient.
- (f) The information provided to the division under subsection (e) must be based on a calendar year.
- (g) The information required under subsection (e) for calendar year 1998 must be submitted to the division not later than June 30, 1999.

Subsequent information must be submitted to the division not later than:

- (1) February 29, 2004, for calendar year 2003;
- (2) February 28, 2005, for calendar year 2004;
- (3) February 28, 2006, for calendar year 2005;
- (4) February 28, 2007, for calendar year 2006; and
- (5) February 29, 2008, for calendar year 2007.

(h) Failure of a certified provider to submit the information required under subsection (e) may result in suspension or termination of the provider's certification.

(i) The division shall report to the governor and the legislative council the failure of a certified provider to provide information required by subsection (e).

(j) The division shall distribute the report prepared under subsection (d) to the governor and legislative council.

(k) The first report the division is required to prepare under subsection (d) is due not later than September 30, 1999.

(l) The division shall establish a central registry to receive the information required by subsection (d)(9).

(m) A report distributed under this SECTION to the legislative council must be in an electronic format under IC 5-14-6.

(n) This SECTION expires July 1, 2008.

SECTION 192. P.L.31-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 1. (a) As used in this SECTION, "member" refers to a person appointed under subsection (c)(3) or (c)(4) or to a legislator whose district includes all or part of Lake County, Porter County, LaPorte County, St. Joseph County, or Elkhart County.

(b) The northwest Indiana transportation study commission is established.

(c) The commission consists of fourteen (14) voting members appointed as follows:

- (1) Six (6) members of the senate, not more than three (3) of whom may be members of the same political party, appointed by the president pro tempore of the senate.
- (2) Six (6) members of the house of representatives, not more than three (3) of whom may be members of the same political party, appointed by the speaker of the house of representatives.

(3) One (1) individual who is not a legislator, appointed by the Northwestern Indiana Regional Planning Commission.

(4) One (1) individual who is not a legislator, appointed by the Michiana Area Council of Governments.

(d) The chairman of the legislative council shall select one (1) member of the commission to serve as the chairperson and the vice chairman of the legislative council shall select one (1) member of the commission to serve as the vice chairperson.

(e) The commission shall:

(1) monitor the development of commuter transportation and rail service in the Lowell-Chicago and Valparaiso-Chicago corridors;

(2) study all aspects of regional mass transportation and road and highway needs in Lake County, Porter County, LaPorte County, St. Joseph County, and Elkhart County; and

(3) study other topics as assigned by the legislative council.

(f) The commission shall submit a final report of the commission's findings and recommendations to the legislative council before November 1, 2005. **The report must be in an electronic format under IC 5-14-6.**

(g) Each member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to individuals serving as legislative or lay members on interim study committees established by the legislative council.

(h) The legislative services agency shall provide staff support to the commission.

(i) This SECTION expires November 2, 2005.

SECTION 193. P.L.59-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 3. (a) As used in this SECTION, "state department" refers to the state department of health established by IC 16-19-1-1.

(b) The state department shall collect the following data for each county concerning each county resident diagnosed with lead poisoning:

(1) The individual's name.

(2) The individual's address.

(3) Whether the individual is a child or an adult.

(4) The results of the blood test used to diagnose the individual.

(5) The individual's normal limits for the test.

(c) Personal information collected under subsection (b) is confidential.

(d) The state department shall, not later than:

(1) December 31, 2003, for data collected during 2003; and

(2) December 31, 2004, for data collected during 2004;

report to the governor's office and the legislative council the number of adults and the number of children diagnosed with lead poisoning in each county.

(e) A report under this SECTION to the legislative council must be in an electronic format under IC 5-14-6.

(f) This SECTION expires December 31, 2005.

SECTION 194. P.L.82-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 1. (a) As used in this SECTION, "commission" refers to the Indiana commission on excellence in health care established by subsection (d).

(b) As used in this SECTION, "health care professional" has the meaning set forth in IC 16-27-1-1.

(c) As used in this SECTION, "health care provider" includes the following:

(1) A hospital or an ambulatory outpatient surgical center licensed under IC 16-21.

(2) A hospice program (as defined in IC 16-25-1.1-4).

(3) A home health agency licensed under IC 16-27-1.

(4) A health facility licensed under IC 16-28.

(d) There is established the Indiana commission on excellence in health care.

(e) The commission consists of the following members:

(1) Four (4) members appointed from the house of representatives by the speaker of the house of representatives. Not more than two

(2) of the members appointed under this subdivision may be members of the same political party.

(2) Four (4) members appointed from the senate by the president pro tempore of the senate. Not more than two (2) of the members appointed under this subdivision may be members of the same political party.

(3) The governor or the governor's designee.

(4) The state health commissioner appointed under IC 16-19-4-2

or the commissioner's designee.

(5) One (1) member appointed by the governor who is a former dean or former faculty member of the Indiana University School of Medicine.

(6) One (1) member appointed by the governor who is a former dean or former faculty member of an Indiana school of nursing.

(7) One (1) member appointed by the governor who is a health care provider or a representative for individuals who have both a mental illness and a developmental disability.

(f) The commission shall operate under the rules of the legislative council. The commission shall meet upon the call of the chairperson.

(g) The affirmative votes of at least seven (7) voting members of the commission are required for the commission to take any action, including the approval of a final report.

(h) The speaker of the house of representatives shall appoint the chairperson of the commission during odd-numbered years beginning January 1. The president pro tempore of the senate shall appoint the chairperson of the commission during even-numbered years beginning January 1.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(j) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

(l) The legislative services agency shall provide staff to support the

commission. The legislative services agency is not required to provide staff assistance to the subcommittees of the commission except to the extent the subcommittees require copying services.

(m) The expenses of the commission shall be paid from funds appropriated to the legislative services agency.

(n) The commission shall study the quality of health care, including mental health, and develop a comprehensive statewide strategy for improving the health care delivery system. The commission shall do the following:

- (1) Identify existing data sources that evaluate quality of health care in Indiana and collect, analyze, and evaluate this data.
- (2) Establish guidelines for data sharing and coordination.
- (3) Identify core sets of quality measures for standardized reporting by appropriate components of the health care continuum.
- (4) Recommend a framework for quality measurement and outcome reporting.
- (5) Develop quality measures that enhance and improve the ability to evaluate and improve care.
- (6) Make recommendations regarding research and development needed to advance quality measurement and reporting.
- (7) Evaluate regulatory issues relating to the pharmacy profession and recommend changes necessary to optimize patient safety.
- (8) Facilitate open discussion of a process to ensure that comparative information on health care quality is valid, reliable, comprehensive, understandable, and widely available in the public domain.
- (9) Sponsor public hearings to share information and expertise, identify best practices, and recommend methods to promote their acceptance.
- (10) Evaluate current regulatory programs to determine what changes, if any, need to be made to facilitate patient safety.
- (11) Review public and private health care purchasing systems to determine if there are sufficient mandates and incentives to facilitate continuous improvement in patient safety.
- (12) Analyze how effective existing regulatory systems are in ensuring continuous competence and knowledge of effective safety practices.

(13) Develop a framework for organizations that license, accredit, or credential health care professionals and health care providers to more quickly and effectively identify unsafe providers and professionals and to take action necessary to remove an unsafe provider or professional from practice or operation until the professional or provider has proven safe to practice or operate.

(14) Recommend procedures for development of a curriculum on patient safety and methods of incorporating the curriculum into training, licensure, and certification requirements.

(15) Develop a framework for regulatory bodies to disseminate information on patient safety to health care professionals, health care providers, and consumers through conferences, journal articles and editorials, newsletters, publications, and Internet websites.

(16) Recommend procedures to incorporate recognized patient safety considerations into practice guidelines and into standards related to the introduction and diffusion of new technologies, therapies, and drugs.

(17) Recommend a framework for development of community based collaborative initiatives for error reporting and analysis and implementation of patient safety improvements.

(18) Evaluate the role of advertising in promoting or adversely affecting patient safety.

(19) Evaluate and make recommendations regarding the need for licensure of additional persons who participate in the delivery of health care to Indiana residents.

(20) Evaluate the benefits and problems of the current disciplinary systems and make recommendations regarding alternatives and improvements.

(21) Study and make recommendations concerning the long term care system, including self-directed care plans and the regulation and reimbursement of public and private facilities that provide long term care.

(22) Study and make recommendations concerning increasing the number of:

- (1) nurses;
- (2) respiratory care practitioners;
- (3) speech pathologists; and

(4) dental hygienists.

(23) Study any other topic required by the chairperson.

(o) The commission may create subcommittees to study topics, receive testimony, and prepare reports on topics assigned by the commission. The chairperson shall select from the topics listed under subsection (n) the topics to be studied by the commission and subcommittees each year. The chairperson shall appoint persons to act as chairperson and secretary of each subcommittee. The commission shall by majority vote appoint initial members to each subcommittee. Each subcommittee may by a majority vote of the members appointed to the subcommittee make a recommendation to the commission to appoint additional members to the subcommittee. The commission may by a majority vote of the members appointed to the commission appoint or remove members of a subcommittee. A member of a subcommittee, including a commission member while serving on a subcommittee, is not entitled to per diem, mileage, or travel allowances.

(p) The commission shall submit:

(1) interim reports not later than October 1, 2001, and October 1, 2002; and

(2) a final report not later than October 31, 2004;

to the governor, members of the health finance commission, and the legislative council. With the consent of the chairperson of the commission and the chairperson of the health finance commission, the commission and the health finance commission may conduct joint meetings. **A final report submitted under this subsection to the legislative council must be in an electronic format under IC 5-14-6.**

(q) This SECTION expires November 1, 2004.

SECTION 195. P.L.140-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 1. (a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c).

(b) The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:

(1) assure that sentencing laws and policies protect the public safety;

(2) establish fairness and uniformity in sentencing laws and policies;

- (3) determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and
- (4) maximize cost effectiveness in the administration of sentencing laws and policies.

(c) The sentencing policy study committee is established to evaluate sentencing laws and policies as they relate to:

- (1) the purposes of the criminal justice and corrections systems;
- (2) the availability of sentencing options; and
- (3) the inmate population in department of correction facilities.

If based on the committee's evaluation under this subsection it determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(d) The committee shall do the following:

- (1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:

- (A) The nature and degree of harm likely to be caused by the offense, including whether it involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.

- (B) The deterrent effect a particular classification may have on the commission of the offense.

- (C) The current incidence of the offense in Indiana.

- (D) The rights of the victim.

- (2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The committee shall also consider:

- (A) the nature and characteristics of the offense;

- (B) the severity of the offense in relation to other offenses;

- (C) the characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct;

- (D) the defendant's number of prior convictions;

(E) the available resources and capacity of the department of correction, local confinement facilities, and community based sanctions; and

(F) the rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs for the purpose of:

(A) standardizing procedures and establishing rules for the supervision of home detainees; and

(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.

(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(7) Recommend a comprehensive community corrections strategy based upon:

(A) a review of existing community corrections programs;

(B) the identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions;

(C) the identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices;

(D) the identification of necessary changes in state oversight and coordination of community corrections programs;

(E) an evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs; and

(F) an analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.

(8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.

(9) Evaluate the use of faith based organizations as an alternative to incarceration.

(e) The committee may study other topics assigned by the legislative council or as directed by the committee chair.

(f) The committee consists of fifteen (15) members appointed as follows:

(1) Two (2) members of the senate, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Two (2) members of the house of representatives, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) The chief justice of the supreme court or the chief justice's designee.

(4) The commissioner of the department of correction or the commissioner's designee.

(5) The director of the Indiana criminal justice institute or the director's designee.

(6) The executive director of the prosecuting attorneys council or the executive director's designee.

(7) The executive director of the public defenders council or the executive director's designee.

(8) One (1) person with experience in administering community corrections programs appointed by the governor.

(9) One (1) person with experience in administering probation programs appointed by the governor.

(10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(g) The chairman of the legislative council shall appoint a

legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the committee and appoint another chair.

(h) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

(i) A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

(j) If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

(k) The committee shall submit a final report of the results of its study to the legislative council before November 1, 2004. **The final report must be in electronic format under IC 5-14-6.**

(l) The Indiana criminal justice institute shall provide staff support to the committee.

(m) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

(n) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including the final report.

(o) Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this act shall be paid from appropriations to the legislative council and legislative services agency.

(p) This SECTION expires December 31, 2004.

SECTION 196. P.L.193-2003, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 12. (a) As used in this SECTION, "association" refers to the comprehensive health insurance association established under IC 27-8-10-2.1.

(b) The office of Medicaid policy and planning established by IC 12-8-6-1 and the association shall cooperatively investigate methods of decreasing association costs related to coverage of individuals diagnosed with hemophilia, including the potential for a demonstration

waiver under Section 1115 of the federal Social Security Act.

(c) The office and the association shall, not later than December 31, 2003, compile the results of the investigation required under subsection (b) and report **the results** to the legislative council **in an electronic format under IC 5-14-6**.

(d) This SECTION expires June 30, 2004.

SECTION 197. P.L.198-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 1. (a) As used in this SECTION, "commission" refers to the commission on abused and neglected children and their families established by subsection (b).

(b) The commission on abused and neglected children and their families is established to develop and present an implementation plan for a continuum of services for children at risk of abuse or neglect and children who have been abused or neglected and their families.

(c) The commission consists of the following members appointed not later than August 15, 2003:

- (1) One (1) prosecuting attorney or a deputy prosecuting attorney.
- (2) One (1) attorney who specializes in juvenile law.
- (3) One (1) representative from law enforcement.
- (4) Two (2) children's advocates.
- (5) One (1) guardian ad litem or court appointed special advocate.
- (6) One (1) juvenile court judge.
- (7) One (1) public agency children's services caseworker.
- (8) One (1) private agency children's services caseworker.
- (9) The director of the division of family and children or the director's designee.
- (10) One (1) counselor or social worker from Indiana's "at risk" school program.
- (11) One (1) pediatrician.
- (12) One (1) medical social worker.
- (13) Two (2) faculty members, including:
 - (A) one (1) faculty member from an Indiana accredited graduate school of social work, who shall serve as the chair of the commission; and
 - (B) one (1) faculty member from an Indiana accredited undergraduate school of social work.
- (14) One (1) county director to be appointed from the Indiana

State Association of County Welfare Administrators.

(15) One (1) foster parent who is a member of a foster advocacy organization.

(16) One (1) adoptive parent who is a member of an adoptive parent advocacy organization.

(17) One (1) nonprofit family services agency provider.

(18) One (1) representative of child caring institution providers.

(19) One (1) psychologist who works with abused and neglected children.

(20) One (1) individual who has experience and training in juvenile fire setting identification and intervention.

(21) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party.

(22) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party.

The speaker of the house of representatives shall appoint the members under subdivisions (2), (5), (8), (10), (15), and (17) and one (1) member under subdivision (4). The president pro tempore of the senate shall appoint the members under subdivisions (3), (11), (12), (16), (18), and (19) and one (1) member under subdivision (4). The governor shall appoint the members under subdivisions (1), (6), (7), (14), and (20) and both members under subdivision (13). Vacancies shall be filled by the appointing authority for the remainder of the unexpired term.

(d) Each member of the commission shall have an interest or experience in improving the quality of services provided to children at risk of abuse or neglect and abused or neglected children and their families in Indiana.

(e) A majority of the voting members of the commission constitutes a quorum.

(f) The Indiana accredited graduate school of social work represented by the chair of the commission shall staff the commission.

(g) The commission shall meet at the call of the chair and shall meet as often as necessary to carry out the purpose of this SECTION.

(h) The expenses of administering the commission shall be paid from the resources of the Indiana accredited graduate school of social

work represented by the chair of the commission. Expenses under this subsection include the following:

- (1) Photocopying and printing costs.
- (2) Costs of supplies.
- (i) Members of the commission are not entitled to a salary per diem or reimbursement of expenses for service on the commission.
- (j) The commission's responsibilities include the following:
 - (1) Reviewing Indiana's public and private family services delivery system for children at risk of abuse or neglect and for children who have been reported as suspected victims of child abuse or neglect.
 - (2) Reviewing federal, state, and local funds appropriated to meet the service needs of children and their families.
 - (3) Reviewing current best practices standards for the provision of child and family services.
 - (4) Examining the qualifications and training of service providers, including foster parents, adoptive parents, child caring institution staff, child placing agency staff, case managers, supervisors, and administrators, and making recommendations for a training curriculum and other necessary changes.
 - (5) Recommending methods to improve use of available public and private funds to address the service needs described in subdivision (2).
 - (6) Providing information concerning identified unmet needs of children and families and providing recommendations concerning the development of resources to meet the identified needs.
 - (7) Suggesting policy, program, and legislative changes related to the family services described in subdivision (1) to accomplish the following:
 - (A) Enhancement of the quality of the services.
 - (B) Identification of potential resources to promote change to enhance the services.
 - (8) Preparing a report consisting of the commission's findings and recommendations, and the presentation of the implementation plan for a continuum of services for children at risk of abuse or neglect and for abused or neglected children and their families specified under subsection (b).
- (k) In carrying out the commission's responsibilities, the

commission shall consider pertinent studies on children at risk of abuse or neglect and on abused or neglected children and their families.

(l) The affirmative votes of a majority of the commission's members are required for the commission to take action on any measure, including recommendations included in the report required under subsection (j)(8).

(m) The commission shall submit the report required under subsection (j)(8) to the governor, the legislative council, and the board for the coordination of child care regulation established by IC 12-17.2-3.1-1 not later than August 15, 2004. The report must be available to the public upon request not later than December 31, 2004.

A report submitted under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(n) This SECTION expires January 1, 2005.

SECTION 198. P.L.211-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 10. (a) An insurer that issues a policy of accident and sickness insurance that contains a waiver under IC 27-8-5-2.5(e) or IC 27-8-5-19.2, both as added by this act, shall submit to the commissioner of the department of insurance the following information for the reporting periods specified under subsection (b) on a form prescribed by the commissioner:

- (1) The number of policies that the insurer issued with a waiver.
- (2) A list of specified conditions that the insurer waived.
- (3) The number of waivers issued for each specified condition listed under subdivision (2).
- (4) The number of waivers issued categorized by the period of time for which coverage of a specified condition was waived.
- (5) The number of applicants who were denied insurance coverage by the insurer because of a specified condition.
- (6) The number of:
 - (A) complaints; and
 - (B) requests for external grievance review; filed in relation to a waiver.

(b) An insurer shall submit the information required under subsection (a) as follows:

- (1) Not later than August 1, 2004, for the reporting period July 1, 2003, through June 30, 2004.

(2) Not later than August 1, 2005, for the reporting period July 1, 2004, through June 30, 2005.

(3) Not later than August 1, 2006, for the reporting period July 1, 2005, through June 30, 2006.

(4) Not later than August 1, 2007, for the reporting period July 1, 2006, through June 30, 2007.

(c) The commissioner of the department of insurance shall forward the information submitted:

(1) under subsection (b)(1) not later than November 1, 2004;

(2) under subsection (b)(2) not later than November 1, 2005;

(3) under subsection (b)(3) not later than November 1, 2006; and

(4) under subsection (b)(4) not later than November 1, 2007;

to the legislative council.

(d) The commissioner of the department of insurance shall compile the information submitted under subsection (b) and, not later than November 1 of each year, report the information to the legislative council and ~~each member of~~ the general assembly **in an electronic format under IC 5-14-6.**

(e) The commissioner of the department of insurance shall after June 30 of each year beginning in 2004 perform written or oral interviews with every available certificate holder of a certificate of coverage issued under IC 27-8-5-19.2, as added by this act, and compile the results of the interviews and report the results to the legislative council:

(1) for the period beginning July 1, 2003, and ending June 30, 2004, not later than November 1, 2004;

(2) for the period beginning July 1, 2004, and ending June 30, 2005, not later than November 1, 2005;

(3) for the period beginning July 1, 2005, and ending June 30, 2006, not later than November 1, 2006; and

(4) for the period beginning July 1, 2006, and ending June 30, 2007, not later than November 1, 2007.

All costs related to this subsection must be borne by the insurers selected under IC 27-8-5-19.2, as added by this act.

(f) This SECTION expires June 30, 2008.

SECTION 199. [EFFECTIVE JULY 1, 2003 (RETROACTIVE)] A report submitted to the legislative council by the division of disability, aging, and rehabilitative services under P.L.224-2003,

SECTION 8, must be in an electronic format under IC 5-14-6.

SECTION 200. P.L.240-2003, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 12. (a) As used in this SECTION, "boards" refers to:

- (1) the air pollution control board;
- (2) the water pollution control board; and
- (3) the solid waste management board.

(b) Before November 1, 2003, the environmental quality service council shall:

- (1) consider whether the rulemaking operations of the boards are sufficiently independent of the influence of:
 - (A) the department of environmental management; and
 - (B) other state agencies or entities;
- (2) consider the overall efficiency of rulemaking operations of the boards; and
- (3) submit its final report on the matters described in subdivisions (1) and (2) to:
 - (A) the governor; and
 - (B) the executive director of the legislative services agency.

A report submitted under subdivision (3)(B) must be in electronic format under IC 5-14-6.

(c) As part of its consideration under subsections (b)(1) and (b)(2), the environmental quality service council shall examine the following:

- (1) The composition of the boards.
- (2) The appointing authorities for members of the boards.
- (3) The extent to which the boards control staff who serve the boards.
- (4) The sources and availability of data concerning:
 - (A) the fiscal impact; and
 - (B) other aspects;of proposed rules.
- (5) The involvement of employees of:
 - (A) the department of environmental management; and
 - (B) other state agencies or entities;in the rulemaking process.
- (6) The procedures to initiate and adopt proposed rules.
- (7) The procedures to determine which issues are addressed in

proposed rules and which issues are addressed in nonrule policy documents.

(8) The requirements for public notice and public participation in the rulemaking process.

(9) The means by which other states maintain independent and efficient operations of environmental rulemaking entities.

(10) Any other matter the environmental quality service council considers appropriate.

(d) This SECTION expires January 1, 2004.

SECTION 201. **An emergency is declared for this act.**

P.L.29-2004

[H.1042. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-32-6-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 20.5. "Qualified recipient" means:**

- (1) a hospital or medical center operated by the federal government;
- (2) a hospital licensed under IC 16-21;
- (3) a hospital subject to IC 16-22;
- (4) a hospital subject to IC 16-23;
- (5) a health facility licensed under IC 16-28;
- (6) a psychiatric facility licensed under IC 12-25;
- (7) an organization described in section 20(a) of this chapter;
- (8) an activity or a program of a local law enforcement agency intended to reduce substance abuse;
- (9) a charitable activity of a local law enforcement agency; or
- (10) a veterans' home.

SECTION 2. IC 4-32-6-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2004]: Sec. 23. 5. "Veterans' home" means any of the following:

(1) The Indiana Veterans' Home.

(2) The VFW National Home for Children.

(3) The Indiana Soldiers' and Sailors' Children's Home.

SECTION 3. IC 4-32-9-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16.5. (a) A qualified organization that receives ninety percent (90%) or more of the organization's total gross receipts from any events licensed under this article is required to donate sixty percent (60%) of its gross charitable gaming receipts less prize payout to ~~another qualified organization a~~ **qualified recipient** that is not an affiliate, a parent, or a subsidiary organization of the qualified organization.

(b) **For purposes of this section, a veterans' home is not considered to be an affiliate, a parent, or a subsidiary organization of a qualified organization that is a bona fide veterans' organization.**

P.L.30-2004

[H.1044. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-44-3-9, AS AMENDED BY P.L.243-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) As used in this section, "juvenile facility" means the following:

(1) A secure facility (as defined in IC 31-9-2-114) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(2) A shelter care facility (as defined in IC 31-9-2-117) in which a child is detained under IC 31 or used for a child awaiting

adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.

(b) **Except as provided in subsection (d)**, a person who, without the prior authorization of the person in charge of a penal facility or juvenile facility knowingly or intentionally:

(1) delivers, or carries into the penal facility or juvenile facility with intent to deliver, an article to an inmate or child of the facility;

(2) carries, or receives with intent to carry out of the penal facility or juvenile facility, an article from an inmate or child of the facility; or

(3) delivers, or carries to a ~~work site~~ **worksite** with the intent to deliver, alcoholic beverages to an inmate or child of a jail work crew or community work crew;

commits trafficking with an inmate, a Class A misdemeanor. ~~However, the offense is a Class C felony if the article is a controlled substance or a deadly weapon.~~

(c) If the person who committed the offense under subsection (b) is an employee of:

(1) the department of correction; or

(2) a penal facility;

and the article is a cigarette or tobacco product (as defined in IC 6-7-2-5), the court shall impose a mandatory five thousand dollar (\$5,000) fine under IC 35-50-3-2, in addition to any term of imprisonment imposed under IC 35-50-3-2.

(d) The offense under subsection (b) is a Class C felony if the article is:

(1) a controlled substance; or

(2) a deadly weapon.

P.L.31-2004

[H.1046. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-9-36-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The following improvements may be made under this chapter by a county:

- (1) Sanitary sewers and sanitary sewer tap-ins.
- (2) Sidewalks.
- (3) Curbs.
- (4) Streets.
- (5) Storm sewers.

(6) **Lighting.**

(7) Any other structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, sewage, storm drainage, and other drainage of a municipality.

(b) The following improvements may be made under this chapter by a municipality:

- (1) Sidewalks.
- (2) Curbs.
- (3) Streets.
- (4) Alleys.
- (5) Paved public places.
- (6) Lighting.
- (7) A water main extension for a municipality that owns and operates a water utility.

P.L.32-2004

[H.1050. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-7-4-207 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 207. (a) ADVISORY. In a city having a park board and a city civil engineer, the city plan commission consists of nine (9) members, as follows:

- (1) One (1) member appointed by the city legislative body from its membership.
- (2) One (1) member appointed by the park board from its membership.
- (3) One (1) member or designated representative appointed by the city works board.
- (4) The city civil engineer or a qualified assistant appointed by the city civil engineer.
- (5) Five (5) citizen members, of whom no more than three (3) may be of the same political party, appointed by the city executive.

(b) ADVISORY. If a city lacks either a park board or a city civil engineer, or both, subsection (a) does not apply. In such a city or in any town, the municipal plan commission consists of seven (7) members, as follows:

- (1) The municipal legislative body shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.
- (2) The municipal executive shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party.

(c) AREA. To provide equitable representation of rural and urban populations, representation on the area plan commission is determined as follows:

- (1) Seven (7) representatives from each city having a population

of more than one hundred five thousand (105,000).

(2) Six (6) representatives from each city having a population of not less than seventy thousand (70,000) nor more than one hundred five thousand (105,000).

(3) Five (5) representatives from each city having a population of not less than thirty-five thousand (35,000) but less than seventy thousand (70,000).

(4) Four (4) representatives from each city having a population of not less than twenty thousand (20,000) but less than thirty-five thousand (35,000).

(5) Three (3) representatives from each city having a population of not less than ten thousand (10,000) but less than twenty thousand (20,000).

(6) Two (2) representatives from each city having a population of less than ten thousand (10,000).

(7) One (1) representative from each town having a population of more than two thousand one hundred (2,100), and one (1) representative from each town having a population of two thousand one hundred (2,100) or less that had a representative before January 1, 1979.

(8) Such representatives from towns having a population of not more than two thousand one hundred (2,100) as are provided for in section 210 of this chapter.

(9) Six (6) county representatives if the total number of municipal representatives in the county is an odd number, or five (5) county representatives if the total number of municipal representatives is an even number.

(d) METRO. The metropolitan development commission consists of ~~eleven (11)~~ **nine (9)** citizen members, as follows:

(1) ~~Five (5)~~ **Four (4)** members, of whom no more than ~~three (3)~~ **two (2)** may be of the same political party, appointed by the executive of the consolidated city.

(2) Three (3) members, of whom no more than two (2) may be of the same political party, appointed by the legislative body of the consolidated city.

(3) Two (2) members, who must be of different political parties, appointed by the board of commissioners of the county.

~~(4) One (1) member who represents the township legislative~~

bodies. The procedure for the township legislative bodies for appointing the member shall be established by an ordinance adopted by the legislative body of the consolidated city:

by an ordinance adopted by the legislative body of the consolidated city.

SECTION 2. IC 36-7-4-208, AS AMENDED BY P.L.173-2003, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 208. (a) ADVISORY. The county plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county surveyor or the county surveyor's designee.

(4) The county agricultural extension educator. However, if the county does not have a county agricultural extension educator, the county extension board shall select a resident of the county who is a property owner with agricultural interest to serve on the commission under this subdivision for a period not to exceed one (1) year.

(5) Five (5) members appointed in accordance with one (1) of the following:

(A) Four (4) citizen members, of whom no more than two (2) may be of the same political party. ~~and all~~ **Each of the four (4) of whom members** must be:

~~residents~~ **(i) a resident of an unincorporated areas area** of the county; **or**

(ii) a resident of the county who is also an owner of real property located in whole or in part in an unincorporated area of the county;

appointed by the county executive. **However at least two (2) of the citizen members must be residents of the unincorporated area of the county.** Also one (1) township trustee, who must be a resident of an unincorporated area of the county appointed by the county executive upon the recommendation of the township trustees whose townships are within the jurisdiction of the county plan commission.

(B) Five (5) citizen members, of whom not more than three (3)

may be of the same political party. ~~and all~~ **Each of the five (5) of whom members** must be:

~~residents~~ **(i) a resident of an unincorporated areas area** of the county; **or**

(ii) a resident of the county who is also an owner of real property located in whole or in part in an unincorporated area of the county;

appointed by the county executive. **However at least two (2) members must be residents of the unincorporated area of the county.**

If a county executive changes the plan commission from having members described in clause (B) to having members described in clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.

(b) **ADVISORY.** The metropolitan plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county legislative body from its membership.

(2) One (1) member appointed by the second class city legislative body from its membership.

(3) Three (3) citizen members who:

~~(A) are residents of reside in an~~ unincorporated ~~areas area~~ of the county; **or**

(B) reside in the county and also own real property located in whole or in part in an unincorporated area of the county;

of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively engaged in farming.

(4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city

executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) AREA. When there are six (6) county representatives, they are as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission.

(4) One (1) of the following appointed by the county executive:

(A) The county agricultural extension educator.

(B) The county surveyor or the county surveyor's designee.

(5) One (1) citizen member who is:

(A) a resident of the unincorporated area of the county; **or**

(B) a resident of the county who is also an owner of real property located in whole or in part in the unincorporated area of the county;

appointed by the county executive.

(6) One (1) citizen member who is:

(A) a resident of the unincorporated area of the county; **or**

(B) a resident of the county who is also an owner of real property located in whole or in part in the unincorporated area of the county;

appointed by the county fiscal body.

(d) AREA. When there are five (5) county representatives, they are the representatives listed or appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6) and:

(1) the county surveyor or the county surveyor's designee if the county executive appoints the county agricultural extension educator under subsection (c)(4); or

(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).

(e) AREA. The appointing authority may appoint an alternate

member to participate on a commission established under section 204 of this chapter in a hearing or decision if the regular member it has appointed is unavailable. An alternate member shall have all of the powers and duties of a regular member while participating on the commission.

SECTION 3. IC 36-7-4-903, AS AMENDED BY P.L.216-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 903. ADVISORY. (a) When a municipal plan commission exercises jurisdiction outside the incorporated area of the municipality as provided for in section 205 or 1208 of the advisory planning law, either:

- (1) an additional division of the board of zoning appeals shall be established under section 901(b) of this chapter that will have territorial jurisdiction only in the unincorporated area and consist only of residents of the unincorporated area; or
- (2) the municipal plan commission shall designate, as its appointment to the municipal board of zoning appeals under section 902(a)(3) of this chapter, one (1) of the two (2) citizen members who were appointed under section 214 of this chapter to the plan commission to represent the unincorporated area. The citizen member must reside in the unincorporated area; ~~He;~~ **The citizen** shall be appointed for a term of four (4) years. ~~He~~ **The citizen** is entitled to participate and vote in all deliberations of the municipal board of zoning appeals.

(b) Notwithstanding section 902(g) of this chapter, if the zoning ordinance provides for an additional division of the board of zoning appeals under subsection (a)(1), the ordinance may also provide for the appointment of one (1) or more members of that division by elected officials of the county or township.

SECTION 4. IC 36-7-4-608.5 IS REPEALED [EFFECTIVE JULY 1, 2004].

P.L.33-2004

[H.1051. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-45-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) This section applies to suits by or against heirs or devisees founded on a contract with or demand against an ancestor:

(1) to obtain title to or possession of property, real or personal, of, or in right of, the ancestor; or

(2) to affect property described in subdivision (1) in any manner.

(b) **This section does not apply in a proceeding to contest the validity of a:**

(1) will; or

(2) trust.

(c) **Except as provided in subsection (d),** neither party to a suit described in subsection (a) is a competent witness as to any matter that occurred before the death of the ancestor.

(d) **A custodian or other qualified witness in a suit described in subsection (a) may present evidence that is admissible under Indiana Evidence Rule 803(6).**

P.L.34-2004
[H.1054. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-10-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) The board of directors of any port authority may, by resolution, recommend to any municipal corporation or county that a cumulative channel maintenance fund be established under IC 6-1.1-41 to provide funds for **the:**

- (1) dredging **of** channels;
 - (2) cleaning **of** channels and shores of debris and any other pollutants; **and providing or repairing**
 - (3) **purchase, renovation, construction, or repair** of bulkheads, pilings, docks, and wharves; **and the**
 - (4) purchase and development of land adjoining channels within the jurisdiction of the port authority and which land is necessary to the fulfillment of the plan adopted by the port authority for the future development, construction, and improvement of its facilities. The purchased and developed land shall be available to the residents of the taxing district without further charge; **or**
 - (5) **regulation and enforcement of regulation of all uses and activities related to waters that are under the jurisdiction of the port authority.**
- (b) To provide for the cumulative channel maintenance fund:
- (1) a county, city, or town fiscal body may levy a tax in compliance with IC 6-1.1-41 not to exceed three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) on all taxable property within the county, town, or city; **and**
 - (2) **a city described in sections 22(a) and 23(a) of this chapter**

may impose the following:

(A) **An annual docking fee under section 22 of this chapter.**

(B) **A marina launch fee under section 23 of this chapter.**

(c) **The revenue from a tax, when collected, an annual docking fee, or a marina launch fee collected under subsection (b) shall be held in a special fund to be known as the cumulative channel maintenance fund established under subsection (a).**

SECTION 2. IC 8-10-5-22, AS AMENDED BY P.L.170-2002, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22. (a) This section applies to a city ~~having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000): that:~~

(1) **creates; or**

(2) **participates in the creation of;**

a port authority created under this chapter that includes a channel that is ordinarily navigable to Lake Michigan.

(b) The fiscal body **of a city described in subsection (a)** may impose an annual **docking** fee upon each watercraft that is docked for more than twenty-nine (29) days during a year in waters that are under the jurisdiction of a port authority under this chapter.

(c) **☆ An annual docking** fee imposed under this section shall be:

(1) not more than seventy-five cents (\$0.75) per foot for watercraft of thirty (30) feet or less; and

(2) not more than one dollar and fifty cents (\$1.50) per foot for watercraft over thirty (30) feet.

(d) **A marina, dock, or port:**

(1) **located on waters that are under the jurisdiction of a port authority created by a city under this chapter; and**

(2) **where a watercraft is docked;**

shall collect the annual docking fee imposed on the watercraft under this section. Not later than the fifteenth day of each month, each marina, dock, or port shall remit to the city fiscal officer the amount of fees collected under this section during the immediately preceding month.

(e) **Annual docking fees collected imposed** under this section **by a city described in subsection (a)** shall be deposited in the cumulative channel maintenance fund established under section 17 of this chapter. ~~and shall be used only to pay for dredging.~~

(f) Upon collecting an annual docking fee imposed on a watercraft under this section, a marina, dock, or port shall issue to the owner of the watercraft a decal that indicates the year for which the fee under this section has been paid.

(g) The decal issued under subsection (f) must be displayed on the watercraft during the year for which the decal is issued. A watercraft that displays a valid annual docking fee decal under this subsection is not subject to:

- (1) annual docking fees imposed at other marinas, docks, or ports under this section; and
- (2) marina launch fees imposed under section 23 of this chapter.

(h) The general assembly finds that in port authorities that include a channel that is ordinarily navigable to Lake Michigan there exist unique problems related to necessary dredging and cleaning of channels used by boats that operate on the Great Lakes. These unique problems may be alleviated by the authorization of a docking fee under this section.

SECTION 3. IC 8-10-5-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 23. (a) The fiscal body of a city that creates or participates in the creation under this chapter of a port authority that includes a channel that is ordinarily navigable to Lake Michigan may impose a marina launch fee for a watercraft that is launched from a marina, dock, or port located on waters that are under the jurisdiction of the port authority created by the city.

(b) The owner of a watercraft subject to a fee under this section shall pay one (1) of the following:

- (1) A launch fee of one dollar (\$1) per launch.
- (2) An annual marina launch fee of:
 - (A) seventy-five cents (\$0.75) per foot for a watercraft of thirty (30) feet or less in length; or
 - (B) one dollar and fifty cents (\$1.50) per foot for watercraft over thirty (30) feet in length.

(c) A marina, dock, or port:

- (1) located on waters that are under the jurisdiction of a port authority created by a city under this chapter; and
- (2) from which a watercraft is launched;

shall collect the marina launch fee imposed on the watercraft

under this section. Not later than the fifteenth day of each month, each marina, dock, or port shall remit to the city fiscal officer the amount of fees collected under this section during the immediately preceding month.

(d) The marina launch fees imposed under this section by a city described in subsection (a) shall be deposited in the cumulative channel maintenance fund established under section 17 of this chapter.

(e) Upon collecting a fee under this section, a marina, dock, or port shall issue to the person who owns the watercraft:

(1) a paper permit that indicates the day for which the fee was paid, in the case of a one (1) time marina launch fee; or

(2) a decal that indicates the year for which the fee was paid, in the case of an annual marina launch fee.

(f) The decal or permit issued under subsection (e) must be displayed on the watercraft during the period for which the decal or permit is issued. A watercraft that displays a valid annual marina launch decal or permit under this subsection is not subject to an annual watercraft docking fee imposed under section 22 of this chapter.

(g) The general assembly finds that in port authorities that include a channel that is ordinarily navigable to Lake Michigan there exist unique problems related to necessary dredging and cleaning of channels used by boats that operate on the Great Lakes. These unique problems may be alleviated by the authorization of a launch fee under this section.

P.L.35-2004

[H.1072. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 22-12-7-7, AS AMENDED BY P.L.141-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. An order under IC 4-21.5-3-6 or IC 4-21.5-4 may include the following, singly or in combination:

- (1) Require a person who has taken a substantial step toward violating a law or has violated a law to cease and correct the violation.
- (2) Require a person who has control over property that is affected by a violation to take reasonable steps to:
 - (A) protect persons and property from the hazards of the violation; and
 - (B) correct the violation.
- (3) Require persons to leave an area that is affected by a violation and prohibit persons from entering the area until the violation is corrected.
- (4) Impose any of the following sanctions with respect to a permit, registration, certification, release, authorization, variance, exemption, or other license issued by a person described in section 1 of this chapter:
 - (A) Permanently revoke the license.
 - (B) Suspend the license.
 - (C) Censure the person to whom the license is issued.
 - (D) Issue a letter of reprimand to a person to whom the license is issued.
 - (E) Place a person to whom the license is issued on probation.

An order to permanently revoke or suspend a license under this subdivision may include the revocation or suspension of a license issued under IC 35-47.5-4-4.5 for the commission of

an offense under IC 35-47.5-5 or 18 U.S.C. 842 by the licensee.

(5) Impose on a person who has violated a law that may be enforced by the department a civil penalty not to exceed two hundred fifty dollars (\$250) for each day the violation occurs.

SECTION 2. IC 35-47.5-4-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) This section does not apply to a person who is regulated under IC 14-34.

(b) The commission shall adopt rules under IC 4-22-2 to:

(1) govern the use of a regulated explosive; and

(2) establish requirements for the issuance of a license for the use of a regulated explosive.

(c) The commission shall include the following requirements in the rules adopted under subsection (b):

(1) Relicensure every three (3) years after the initial issuance of a license.

(2) Continuing education as a condition of relicensure.

(3) An application for licensure or relicensure must be submitted to the office on forms approved by the commission.

(4) A fee for licensure and relicensure.

(5) Reciprocal recognition of a license for the use of a regulated explosive issued by another state if the licensure requirements of the other state are substantially similar to the licensure requirements established by the commission.

(d) A person may not use a regulated explosive, unless the person has a license issued under this section for the use of a regulated explosive.

(e) The office shall carry out the licensing and relicensing program under the rules adopted by the commission.

(f) As used in this section, "regulated explosive" does not include either of the following:

(1) Consumer fireworks (as defined in 27 CFR 55.11).

(2) Commercially manufactured black powder in quantities not to exceed fifty (50) pounds, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or antique devices.

SECTION 3. IC 35-47.5-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2004]: **Sec. 11. A person who recklessly violates a rule regarding the use of a regulated explosive adopted by the commission under IC 35-47.5-4-4.5 commits a Class A misdemeanor. However, the offense is a Class D felony if the violation of the rule proximately causes bodily injury or death.**

SECTION 4. [EFFECTIVE JULY 1, 2004] IC 35-47.5-5-11, as added by this act, applies only to offenses committed after June 30, 2004.

P.L.36-2004

[H.1082. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 10-13-5-10, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) Upon receiving notification from a parent or legal custodian that a missing child has been found, a law enforcement agency shall immediately notify the clearinghouse.

(b) **Not later than sixty (60) days after the law enforcement agency described in subsection (a) complies with the requirements under federal law for periodic updates of the entries made to the National Crime Information Center (NCIC) concerning a missing child, the law enforcement agency described in subsection (a) shall review reports made to the clearinghouse and update the information.**

P.L.37-2004

[H.1117. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-33-4-3, AS AMENDED BY P.L.143-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The commission shall do the following:

(1) Adopt rules that the commission determines necessary to protect or enhance the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

(2) Conduct all hearings concerning civil violations of this article.

(3) Provide for the establishment and collection of license fees and taxes imposed under this article.

(4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.

(5) Levy and collect penalties for noncriminal violations of this article.

(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.

(7) Be present through the commission's inspectors and agents during the time gambling operations are conducted on a riverboat to do the following:

(A) Certify the revenue received by a riverboat.

(B) Receive complaints from the public.

(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through

IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(9) Adopt rules to establish and implement a voluntary exclusion program that meets the requirements of subsection (c).

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

(c) Rules adopted under subsection (a)(9) must provide the following:

(1) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program agrees to refrain from entering a riverboat or other facility under the jurisdiction of the commission.

(2) That the name of a person participating in the program will be included on a list of persons excluded from all facilities under the jurisdiction of the commission.

(3) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program may not petition the commission for readmittance to a facility under the jurisdiction of the commission.

(4) That the list of patrons entering the voluntary exclusion program **is and the personal information of the participants are** confidential and may only be disseminated by the commission to the owner **or operator** of a facility under the jurisdiction of the commission for purposes of enforcement **and to other entities, upon request by the participant and agreement by the commission.**

(5) ~~That the personal information of a person who participates in the voluntary exclusion program is confidential:~~

~~(6)~~ (5) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

~~(7)~~ (6) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an

owner from seeking the payment of a debt accrued by a person before entering the program.

P.L.38-2004

[H.1133. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-8.1-7-9.5, AS AMENDED BY P.L.244-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9.5. (a) Every child residing in Indiana shall be immunized against:

- (1) diphtheria;
- (2) pertussis (whooping cough);
- (3) tetanus;
- (4) measles;
- (5) rubella;
- (6) poliomyelitis; and
- (7) mumps.

(b) Every child residing in Indiana who enters kindergarten or grade 1 shall be immunized against hepatitis B and chicken pox.

(c) The state department of health may expand or otherwise modify the list of communicable diseases that require documentation of immunity as medical information becomes available that would warrant the expansion or modification in the interest of public health.

(d) The state department of health shall adopt rules under IC 4-22-2 specifying the:

- (1) required immunizations;
- (2) child's age for administering each vaccine;
- (3) adequately immunizing doses; and
- (4) method of documentation of proof of immunity.

(e) Each school shall notify each parent of a child who enrolls in the

school of the requirement that the child must be immunized and that the immunization is required for the child's continued enrollment, attendance, or residence at the school unless:

- (1) the parent or child provides the appropriate documentation of immunity;
- (2) for chicken pox, the parent or child provides a written signed statement that the child has indicated a history of chicken pox; or
- (3) section 2 or 2.5 of this chapter applies.

(f) After June 30, 2005, every child in Indiana who enters grade 9 and grade 12 shall be immunized against hepatitis B. However, a child may not be prevented from enrolling in, attending, or graduating from high school for the sole reason that the child has not been immunized under this subsection. Beginning in the 2007-2008 school year, a high school is not required to notify each parent of a child enrolled to enter grade 9 of the immunization requirement in this subsection. The exceptions in sections 2 and 2.5 of this chapter apply to this subsection. This subsection expires July 1, 2008.

P.L.39-2004

[H.1136. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 14. Methamphetamine Abuse Task Force

Sec. 1. As used in this chapter, "task force" refers to the methamphetamine abuse task force established by section 2 of this chapter.

Sec. 2. The methamphetamine abuse task force is established to

do the following:

- (1) Obtain, review, and evaluate information concerning the harm caused by the illegal importation, production, and use of methamphetamine in Indiana.
- (2) Determine the extent to which methamphetamine use and methamphetamine laboratories interfere with or make more difficult the duties of:
 - (A) federal, state, and local law enforcement;
 - (B) fire departments;
 - (C) educational institutions; and
 - (D) health and social services agencies.
- (3) Review efforts in other states to stem the use and spread of methamphetamine.
- (4) Hold hearings around Indiana to obtain information regarding:
 - (A) the nature of the methamphetamine problem; and
 - (B) local initiatives to combat methamphetamine.
- (5) Invite experts to testify regarding any issue the task force is studying.
- (6) Collect additional information that will assist the task force in carrying out the duties set forth in subdivisions (1) through (5).

Sec. 3. (a) By October 31 of each year, the task force shall develop and update a long term strategic action plan to combat methamphetamine and to protect Indiana citizens. The plan must take an integrated approach that focuses on the synergistic benefits of coordinated efforts by the various disciplines represented on the task force.

(b) The strategic action plan must recommend specific actions to be taken during the term of the strategic plan, as well as specific actions, if any are identified, to be taken in the longer term, that are designed to do the following:

- (1) Lessen the demand for methamphetamine.
- (2) Decrease the supply of methamphetamine.
- (3) Improve the enforcement of methamphetamine laws.
- (4) Improve the ability of agencies to deal with the social and health consequences of methamphetamine.
- (5) Improve the ability of agencies to timely and effectively clean up hazardous materials relating to methamphetamine.

Sec. 4. The task force may receive grants, funds, gifts, bequests, and appropriations from any source.

Sec. 5. The task force consists of the following members:

- (1) The superintendent of the state police department or the superintendent's designee.
- (2) The commissioner of the state department of health or the commissioner's designee.
- (3) The state superintendent of public instruction or the state superintendent's designee.
- (4) The commissioner of the department of environmental management or the commissioner's designee.
- (5) The director of the state emergency management agency or the director's designee.
- (6) The secretary of family and social services or the secretary's designee.
- (7) A judge, to be appointed by the governor.
- (8) A prosecuting attorney, to be appointed by the governor.
- (9) A county public defender, to be appointed by the governor.
- (10) A sheriff from a county with a population less than thirty thousand (30,000), to be appointed by the governor, or the sheriff's designee.
- (11) A sheriff from a county with a population greater than one hundred thousand (100,000), to be appointed by the governor, or the sheriff's designee.
- (12) A chief of police from a first or second class city, to be appointed by the governor, or the chief's designee.
- (13) A chief of police from a third class city, to be appointed by the governor, or the chief's designee.
- (14) One (1) mental health professional with expertise in the treatment of drug addiction, to be appointed by the governor.
- (15) A physician with experience in treating individuals who have been:
 - (A) injured by an explosion or a fire in a methamphetamine laboratory; or
 - (B) harmed by contact with methamphetamine precursors;to be appointed by the governor.
- (16) One (1) primary or secondary school professional with experience in educating children concerning the danger of methamphetamine abuse, to be appointed by the governor.

(17) Five (5) persons:

- (A) one (1) representing a retail grocery;**
- (B) one (1) representing a retail pharmacy;**
- (C) one (1) representing a retail hardware store;**
- (D) one (1) representing convenience stores; and**
- (E) one (1) representing retail propane gas dealers;**

with experience in combating the sale of methamphetamine precursors, to be appointed by the governor.

(18) A representative of the farming industry with knowledge of the problem of theft of anhydrous ammonia for use in the manufacture of methamphetamine, to be appointed by the governor.

(19) An individual appointed by the speaker of the house of representatives.

(20) An individual appointed by the president pro tempore of the senate.

(21) A probation officer appointed by the governor.

(22) A pharmaceutical manufacturer representative appointed by the governor.

Sec. 6. (a) The superintendent of the state police department shall serve as the chairperson of the task force.

(b) The task force shall meet at the call of the chairperson.

Sec. 7. The state police department shall staff the task force.

Sec. 8. The expenses of the task force shall be paid from an appropriation made to the state police department.

Sec. 9. A member of the task force who is a member of the general assembly is a nonvoting member.

Sec. 10. The affirmative votes of a majority of the voting members appointed to the task force are required for the task force to take action on a measure, including adoption of the strategic action plan.

Sec. 11. This chapter expires June 30, 2007.

P.L.40-2004

[H.1150. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 27-1-12-2, AS AMENDED BY P.L.126-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The following definitions apply to this section:

(1) "Acceptable collateral" means, as to securities lending transactions:

- (A) cash;
- (B) cash equivalents;
- (C) letters of credit; and
- (D) direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) "Acceptable collateral" means, as to lending foreign securities, sovereign debt that is rated:

- (A) A- or higher by Standard & Poor's Corporation;
- (B) A3 or higher by Moody's Investors Service, Inc.;
- (C) A- or higher by Duff and Phelps, Inc.; or
- (D) 1 by the Securities Valuation Office.

(3) "Acceptable collateral" means, as to repurchase transactions:

- (A) cash;
- (B) cash equivalents; and
- (C) direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(4) "Acceptable collateral" means, as to reverse repurchase

transactions:

(A) cash; and

(B) cash equivalents.

(5) "Admitted assets" means assets permitted to be reported as admitted assets on the statutory financial statement of the life insurance company most recently required to be filed with the commissioner.

(6) "Business entity" means:

(A) a sole proprietorship;

(B) a corporation;

(C) a limited liability company;

(D) an association;

(E) a partnership;

(F) a joint stock company;

(G) a joint venture;

(H) a mutual fund;

(I) a trust;

(J) a joint tenancy; or

(K) other, similar form of business organization;

whether organized for-profit or not-for-profit.

(7) "Cash" means any of the following:

(A) United States denominated paper currency and coins.

(B) Negotiable money orders and checks.

(C) Funds held in any time or demand deposit in any depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(8) "Cash equivalent" means any of the following:

(A) A certificate of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(B) A banker's acceptance issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(C) A government money market mutual fund.

(D) A class one money market mutual fund.

(9) "Class one money market mutual fund" means a money market mutual fund that at all times qualifies for investment pursuant to the "Purposes and Procedures of the Securities

Valuation Office" or any successor publication either using the bond class one reserve factor or because it is exempt from asset valuation reserve requirements.

(10) "Dollar roll transaction" means two (2) simultaneous transactions that have settlement dates not more than ninety-six (96) days apart and that meet the following description:

(A) In one (1) transaction, a life insurance company sells to a business entity one (1) or both of the following:

(i) Asset-backed securities that are issued, assumed, or guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation or the successor of an entity referred to in this item.

(ii) Other asset-backed securities referred to in Section 106 of Title I of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1), as amended.

(B) In the other transaction, the life insurance company is obligated to purchase from the same business entity securities that are substantially similar to the securities sold under clause (A).

(11) "Domestic jurisdiction" means:

(A) the United States;

(B) any state, territory, or possession of the United States;

(C) the District of Columbia;

(D) Canada; or

(E) any province of Canada.

(12) "Earnings available for fixed charges" means income, after deducting:

(A) operating and maintenance expenses other than expenses that are fixed charges;

(B) taxes other than federal and state income taxes;

(C) depreciation; and

(D) depletion;

but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of a business entity.

(13) "Fixed charges" includes:

(A) interest on funded and unfunded debt;

- (B) amortization of debt discount; and
 - (C) rentals for leased property.
- (14) "Foreign currency" means a currency of a foreign jurisdiction.
- (15) "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.
- (16) "Government money market mutual fund" means a money market mutual fund that at all times:
- (A) invests only in:
 - (i) obligations that are issued, guaranteed, or insured by the United States; or
 - (ii) collateralized repurchase agreements composed of obligations that are issued, guaranteed, or insured by the United States; and
 - (B) qualifies for investment without a reserve pursuant to the "Purposes and Procedures of the Securities Valuation Office" or any successor publication.
- (17) "Guaranteed or insured," when used in reference to an obligation acquired under this section, means that the guarantor or insurer has agreed to:
- (A) perform or insure the obligation of the obligor or purchase the obligation; or
 - (B) be unconditionally obligated, until the obligation is repaid, to maintain in the obligor a minimum net worth, fixed charge coverage, stockholders' equity, or sufficient liquidity to enable the obligor to pay the obligation in full.
- (18) "Investment company" means:
- (A) an investment company as defined in Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended; or
 - (B) a person described in Section 3(c) of the Investment Company Act of 1940.
- (19) "Investment company series" means an investment portfolio of an investment company that is organized as a series company to which assets of the investment company have been specifically allocated.
- (20) "Letter of credit" means a clean, irrevocable, and unconditional letter of credit that is:

(A) issued or confirmed by; and

(B) payable and presentable at;

a financial institution on the list of financial institutions meeting the standards for issuing letters of credit under the "Purposes and Procedures of the Securities Valuation Office" or any successor publication. To constitute acceptable collateral for the purposes of paragraph 29 of subsection (b), ~~of this section~~, a letter of credit must have an expiration date beyond the term of the subject transaction.

(21) "Market value" means the following:

(A) As to cash, the amount of the cash.

(B) As to cash equivalents, the amount of the cash equivalents.

(C) As to letters of credit, the amount of the letters of credit.

(D) As to a security as of any date:

(i) the price for the security on that date obtained from a generally recognized source, or the most recent quotation from such a source; or

(ii) if no generally recognized source exists, the price for the security as determined in good faith by the parties to a transaction;

plus accrued but unpaid income on the security to the extent not included in the price as of that date.

(22) "Money market mutual fund" means a mutual fund that meets the conditions of 17 CFR 270.2a-7, under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(23) "Multilateral development bank" means an international development organization of which the United States is a member.

(24) "Mutual fund" means:

(A) an investment company; or

(B) in the case of an investment company that is organized as a series company, an investment company series;

that is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(25) "Obligation" means any of the following:

(A) A bond.

(B) A note.

- (C) A debenture.
 - (D) Any other form of evidence of debt.
- (26) "Person" means:
- (A) an individual;
 - (B) a business entity;
 - (C) a multilateral development bank; or
 - (D) a government or quasi-governmental body, such as a political subdivision or a government sponsored enterprise.
- (27) "Repurchase transaction" means a transaction in which a life insurance company purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the life insurance company at a specified price, either within a specified period of time or upon demand.
- (28) "Reverse repurchase transaction" means a transaction in which a life insurance company sells securities to a business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period of time or upon demand.
- (29) "Securities lending transaction" means a transaction in which securities are loaned by a life insurance company to a business entity that is obligated to return the loaned securities or equivalent securities to the life insurance company, either within a specified period of time or upon demand.
- (30) "Securities Valuation Office" refers to:
- (A) the Securities Valuation Office of the National Association of Insurance Commissioners; or
 - (B) any successor of the office referred to in Clause (A) established by the National Association of Insurance Commissioners.
- (31) "Series company" means an investment company that is organized as a series company (as defined in Rule 18f-2(a) adopted under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended).
- (32) "Supported", when used in reference to an obligation, by whomever issued or made, means that:
- (a) repayment of the obligation by:
 - (i) a domestic jurisdiction or by an administration, agency,

authority, or instrumentality of a domestic jurisdiction; or
(ii) a business entity;

as the case may be, is secured by real or personal property of value at least equal to the principal amount of the obligation by means of mortgage, assignment of vendor's interest in one (1) or more conditional sales contracts, other title retention device, or by means of other security interest in such property for the benefit of the holder of the obligation; and

(b) the:

(i) domestic jurisdiction or administration, agency, authority, or instrumentality of the domestic jurisdiction; or

(ii) business entity;

as the case may be, has entered into a firm agreement to rent or use the property pursuant to which it is obligated to pay money as rental or for the use of such property in amounts and at times which shall be sufficient, after provision for taxes upon and other expenses of use of the property, to repay in full the obligation with interest and when such agreement and the money obligated to be paid thereunder are assigned, pledged, or secured for the benefit of the holder of the obligation. However, where the security for the repayment of the obligation consists of a first mortgage lien or deed of trust on a fee interest in real property, the obligation may provide for the amortization, during the initial, fixed period of the lease or contract, of less than one hundred percent (100%) of the obligation if there is pledged or assigned, as additional security for the obligation, sufficient rentals payable under the lease, or of contract payments, to secure the amortized obligation payments required during the initial, fixed period of the lease or contract, including but not limited to payments of principal, interest, and taxes other than the income taxes of the borrower, and if there is to be left unamortized at the end of such period an amount not greater than the original appraised value of the land only, exclusive of all improvements, as prescribed by law.

(b) Investments of domestic life insurance companies at the time they are made shall conform to the following categories, conditions, limitations, and standards:

1. Obligations of a domestic jurisdiction or of any administration, agency, authority, or instrumentality of a domestic jurisdiction.

2. Obligations guaranteed, supported, or insured as to principal and interest by a domestic jurisdiction or by an administration, agency, authority, or instrumentality of a domestic jurisdiction.

3. Obligations issued under or pursuant to the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on December 31, 1990, or the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) as in effect on December 31, 1990, interest bearing obligations of the FSLIC Resolution Fund or shares of any institution whose deposits are insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation to the extent that such shares are insured, obligations issued or guaranteed by a multilateral development bank, and obligations issued or guaranteed by the African Development Bank.

4. Obligations issued, guaranteed, or insured as to principal and interest by a city, county, drainage district, road district, school district, tax district, town, township, village, or other civil administration, agency, authority, instrumentality, or subdivision of a domestic jurisdiction, providing such obligations are authorized by law and are:

(a) direct and general obligations of the issuing, guaranteeing or insuring governmental unit, administration, agency, authority, district, subdivision, or instrumentality;

(b) payable from designated revenues pledged to the payment of the principal and interest thereof; or

(c) improvement bonds or other obligations constituting a first lien, except for tax liens, against all of the real estate within the improvement district or on that part of such real estate not discharged from such lien through payment of the assessment. The area to which such improvement bonds or other obligations relate shall be situated within the limits of a town or city and at least fifty percent (50%) of the properties within such area shall be improved with business buildings or residences.

5. Loans evidenced by obligations secured by first mortgage liens on otherwise unencumbered real estate or otherwise unencumbered leaseholds having at least fifty (50) years of unexpired term, such real estate, or leaseholds to be located in a domestic jurisdiction. Such loans shall not exceed eighty percent (80%) of the fair value of the security

determined in a manner satisfactory to the department, except that the percentage stated may be exceeded if and to the extent such excess is guaranteed or insured by:

- (a) a domestic jurisdiction or by an administration, agency, authority, or instrumentality of any domestic jurisdiction; or
- (b) a private mortgage insurance corporation approved by the department.

If improvements constitute a part of the value of the real estate or leaseholds, such improvements shall be insured against fire for the benefit of the mortgagee in an amount not less than the difference between the value of the land and the unpaid balance of the loan.

For the purpose of this section, real estate or a leasehold shall not be deemed to be encumbered by reason of the existence in relation thereto of:

- (1) liens inferior to the lien securing the loan made by the life insurance company;
- (2) taxes or assessment liens not delinquent;
- (3) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls, or utility connections;
- (4) building restrictions or other restrictive covenants; or
- (5) an unassigned lease reserving rents or profits to the owner.

A loan that is authorized by this paragraph remains qualified under this paragraph notwithstanding any refinancing, modification, or extension of the loan. Investments authorized by this paragraph shall not in the aggregate exceed forty-five percent (45%) of the life insurance company's admitted assets.

6. Loans evidenced by obligations guaranteed or insured, but only to the extent guaranteed or insured, by a domestic jurisdiction or by any agency, administration, authority, or instrumentality of any domestic jurisdiction, and secured by second or subsequent mortgages or deeds of trust on real estate or leaseholds, provided the terms of the leasehold mortgages or deeds of trust shall not exceed four-fifths ($4/5$) of the unexpired lease term, including enforceable renewable options remaining at the time of the loan.

7. Real estate contracts involving otherwise unencumbered real estate situated in a domestic jurisdiction, to be secured by the title to such real estate, which shall be transferred to the life insurance

company or to a trustee or nominee of its choosing. For statement and deposit purposes, the value of a contract acquired pursuant to this paragraph shall be whichever of the following amounts is the least:

- (a) eighty percent (80%) of the contract price of the real estate;
- (b) eighty percent (80%) of the fair value of the real estate at the time the contract is purchased, such value to be determined in a manner satisfactory to the department; or
- (c) the amount due under the contract.

For the purpose of this paragraph, real estate shall not be deemed encumbered by reason of the existence in relation thereto of: (1) taxes or assessment liens not delinquent; (2) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls or utility connections; (3) building restrictions or other restrictive covenants; or (4) an unassigned lease reserving rents or profits to the owner. Fire insurance upon improvements constituting a part of the real estate described in the contract shall be maintained in an amount at least equal to the unpaid balance due under the contract or the fair value of improvements, whichever is the lesser.

8. Improved or unimproved real property, whether encumbered or unencumbered, or any interest therein, held directly or evidenced by joint venture interests, general or limited partnership interests, trust certificates, or any other instruments, and acquired by the life insurance company as an investment, which real property, if unimproved, is developed within five (5) years. Real property acquired for investment under this paragraph, whether leased or intended to be developed for commercial or residential purposes or otherwise lawfully held, is subject to the following conditions and limitations:

- (a) The real estate shall be located in a domestic jurisdiction.
- (b) The admitted assets of the life insurance company must exceed twenty-five million dollars (\$25,000,000).
- (c) The life insurance company shall have the right to expend from time to time whatever amount or amounts may be necessary to conform the real estate to the needs and purposes of the lessee and the amount so expended shall be added to and become a part of the investment in such real estate.
- (d) The value for statement and deposit purposes of an investment under this paragraph shall be reduced annually by amortization of

the costs of improvement and development, less land costs, over the expected life of the property, which value and amortization shall for statement and deposit purposes be determined in a manner satisfactory to the commissioner. In determining such value with respect to the calendar years in which an investment begins or ends with respect to a point in time other than the beginning or end of a calendar year, the amortization provided above shall be made on a proportional basis.

(e) Fire insurance shall be maintained in an amount at least equal to the insurable value of the improvements or the difference between the value of the land and the value at which such real estate is carried for statement and deposit purposes, whichever amount is smaller.

(f) Real estate acquired in any of the manners described and sanctioned under section 3 of this chapter, or otherwise lawfully held, except paragraph 5 of that section which specifically relates to the acquisition of real estate under this paragraph, shall not be affected in any respect by this paragraph unless such real estate at or subsequent to its acquisition fulfills the conditions and limitations of this paragraph, and is declared by the life insurance company in a writing filed with the department to be an investment under this paragraph. The value of real estate acquired under section 3 of this chapter, or otherwise lawfully held, and invested under this paragraph shall be initially that at which it was carried for statement and deposit purposes under that section.

(g) Neither the cost of each parcel of improved real property nor the aggregate cost of all unimproved real property acquired under the authority of this paragraph may exceed two percent (2%) of the life insurance company's admitted assets. For purposes of this paragraph, "unimproved real property" means land containing no structures intended for commercial, industrial, or residential occupancy, and "improved real property" consists of all land containing any such structure. When applying the limitations of subparagraph (d) of this paragraph, unimproved real property becomes improved real property as soon as construction of any commercial, industrial, or residential structure is so completed as to be capable of producing income. In the event the real property is mortgaged with recourse to the life insurance company or the

life insurance company commences a plan of construction upon real property at its own expense or guarantees payment of borrowed funds to be used for such construction, the total project cost of the real property will be used in applying the two percent (2%) test. Further, no more than ten percent (10%) of the life insurance company's admitted assets may be invested in all property, measured by the property value for statement and deposit purposes as defined in this paragraph, held under this paragraph at the same time.

9. Deposits of cash in a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or certificates of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

10. Bank and bankers' acceptances and other bills of exchange of kinds and maturities eligible for purchase or rediscount by federal reserve banks.

11. Obligations that are issued, guaranteed, assumed, or supported by a business entity organized under the laws of a domestic jurisdiction and that are rated:

- (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper);
- (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper);
- (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper); or
- (d) 1 or 2 by the Securities Valuation Office.

Investments may also be made under this paragraph in obligations that have not received a rating if the earnings available for fixed charges of the business entity for the period of its five (5) fiscal years next preceding the date of purchase shall have averaged per year not less than one and one-half (1 1/2) times its average annual fixed charges applicable to such period and if during either of the last two (2) years of such period such earnings available for fixed charges shall have been not less than one and one-half (1 1/2) times its fixed charges for such year. However, if the business entity is a finance company or other lending institution at least eighty percent (80%) of the assets of which are cash and receivables representing loans or discounts made or purchased by it, the multiple shall be one and one-quarter (1 1/4)

instead of one and one-half (1 1/2).

11.(A) Obligations issued, guaranteed, or assumed by a business entity organized under the laws of a domestic jurisdiction, which obligations have not received a rating or, if rated, have not received a rating that would qualify the obligations for investment under paragraph 11 of this section. Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

12. Preferred stock of, or common or preferred stock guaranteed as to dividends by, any corporation organized under the laws of a domestic jurisdiction, which over the period of the seven (7) fiscal years immediately preceding the date of purchase earned an average amount per annum at least equal to five percent (5%) of the par value of its common and preferred stock (or, in the case of stocks having no par value, of its issued or stated value) outstanding at date of purchase, or which over such period earned an average amount per annum at least equal to two (2) times the total of its annual interest charges, preferred dividends and dividends guaranteed by it, determined with reference to the date of purchase. No investment shall be made under this paragraph in a stock upon which any dividend is in arrears or has been in arrears for ninety (90) days within the immediately preceding five (5) year period.

13. Common stock of any solvent corporation organized under the laws of a domestic jurisdiction which over the seven (7) fiscal years immediately preceding purchase earned an average amount per annum at least equal to six percent (6%) of the par value of its capital stock (or, in the case of stock having no par value, of the issued or stated value of such stock) outstanding at date of purchase, but the conditions and limitations of this paragraph shall not apply to the special area of investment to which paragraph 23 of this section pertains.

13.(A) Stock or shares of any mutual fund that:

(a) has been in existence for a period of at least five (5) years immediately preceding the date of purchase, has assets of not less than twenty-five million dollars (\$25,000,000) at the date of purchase, and invests substantially all of its assets in investments permitted under this section; or

(b) is a class one money market mutual fund or a class one bond mutual fund.

Investments authorized by this paragraph 13(A) in mutual funds having the same or affiliated investment advisers shall not at any one (1) time exceed in the aggregate ten percent (10%) of the life insurance company's admitted assets. The limitations contained in paragraph 22 of this subsection apply to investments in the types of mutual funds described in subparagraph (a). For the purposes of this paragraph, "class one bond mutual fund" means a mutual fund that at all times qualifies for investment using the bond class one reserve factor under the "Purposes and Procedures of the Securities Valuation Office" or any successor publication.

The aggregate amount of investments under this paragraph may be limited by the commissioner if the commissioner finds that investments under this paragraph may render the operation of the life insurance company hazardous to the company's policyholders or creditors or to the general public.

14. Loans upon the pledge of any of the investments described in this section other than real estate and those qualifying solely under paragraph 20 of this subsection, but the amount of such a loan shall not exceed seventy-five percent (75%) of the value of the investment pledged.

15. Real estate acquired or otherwise lawfully held under the provisions of IC 27-1, except under paragraph 7 or 8 of this subsection, which real estate as an investment shall also include the value of improvements or betterments made thereon subsequent to its acquisition. The value of such real estate for deposit and statement purposes is to be determined in a manner satisfactory to the department.

15.(A) Tangible personal property, equipment trust obligations, or other instruments evidencing an ownership interest or other interest in tangible personal property when the life insurance company purchasing such property has admitted assets in excess of twenty-five million dollars (\$25,000,000), and where there is a right to receive determined portions of rental, purchase, or other fixed obligatory payments for the use of such personal property from a corporation whose obligations would be eligible for investment under the provisions of paragraph 11 of this subsection, provided that the aggregate of such payments together with the estimated salvage value of such property at the end of its minimum useful life, to be determined in a manner acceptable to

the insurance commissioner, and the estimated tax benefits to the insurer resulting from ownership of such property, is adequate to return the cost of the investment in such property, and provided further, that each net investment in tangible personal property for which any single private corporation is obligated to pay rental, purchase, or other obligatory payments thereon does not exceed one-half of one percent (1/2%) of the life insurance company's admitted assets, and the aggregate net investments made under the provisions of this paragraph do not exceed five percent (5%) of the life insurance company's admitted assets.

16. Loans to policyholders of the life insurance company in amounts not exceeding in any case the reserve value of the policy at the time the loan is made.

17. A life insurance company doing business in a foreign jurisdiction may, if permitted or required by the laws of such jurisdiction, invest funds equal to its obligations in such jurisdiction in investments legal for life insurance companies domiciled in such jurisdiction or doing business therein as alien companies.

17.(A) Investments in (i) obligations issued, guaranteed, assumed, or supported by a foreign jurisdiction or by a business entity organized under the laws of a foreign jurisdiction and (ii) preferred stock and common stock issued by any such business entity, if the obligations of such foreign jurisdiction or business entity, as appropriate, are rated:

- (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper);
- (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper);
- (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper); or
- (d) 1 or 2 by the Securities Valuation Office.

If the obligations issued by a business entity organized under the laws of a foreign jurisdiction have not received a rating, investments may nevertheless be made under this paragraph in such obligations and in the preferred and common stock of the business entity if the earnings available for fixed charges of the business entity for a period of five (5) fiscal years preceding the date of purchase have averaged at least three (3) times its average fixed charges applicable to such period, and if during either of the last two (2) years of such period, the earnings

available for fixed charges were at least three (3) times its fixed charges for such year. ~~in~~ Investments authorized by this paragraph in a single foreign jurisdiction shall not exceed ten percent (10%) of the life insurance company's admitted assets. Subject to section 2.2(g) of this chapter, investments authorized by this paragraph denominated in foreign currencies shall not in the aggregate exceed ten percent (10%) of a life insurance company's admitted assets, and investments in any one (1) foreign currency shall not exceed five percent (5%) of the life insurance company's admitted assets. Investments authorized by this paragraph and paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets. This paragraph in no way limits or restricts investments which are otherwise specifically eligible for deposit under this section.

17.(B) Investments in:

- (a) obligations issued, guaranteed, or assumed by a foreign jurisdiction or by a business entity organized under the laws of a foreign jurisdiction; and
- (b) preferred stock and common stock issued by a business entity organized under the laws of a foreign jurisdiction;

which investments are not eligible for investment under paragraph 17.(A).

Investments authorized by this paragraph 17(B) shall not in the aggregate exceed five percent (5%) of the life insurance company's admitted assets. Subject to section 2.2(g) of this chapter, if investments authorized by this paragraph 17(B) are denominated in a foreign currency, the investments shall not, as to such currency, exceed two percent (2%) of the life insurance company's admitted assets. Investments authorized by this paragraph 17(B) in any one (1) foreign jurisdiction shall not exceed two percent (2%) of the life insurance company's admitted assets.

Investments authorized by paragraph 17(A) of this subsection and this paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets.

18. To protect itself against loss, a company may in good faith receive in payment of or as security for debts due or to become due, investments or property which do not conform to the categories, conditions, limitations, and standards set out above.

19. A life insurance company may purchase for its own benefit any

of its outstanding annuity or insurance contracts or other obligations and the claims of holders thereof.

20. A life insurance company may make investments although not conforming to the categories, conditions, limitations, and standards contained in paragraphs 1 through 11, 12 through 19, and 29 through ~~30.(A)~~ 31 of this subsection, but limited in aggregate amount to the lesser of:

- (a) ten percent (10%) of the company's admitted assets; or
- (b) the aggregate of the company's capital, surplus, and contingency reserves reported on the statutory financial statement of the insurer most recently required to be filed with the commissioner.

This paragraph 20 does not apply to investments authorized by paragraph 11.(A) of this subsection.

20.(A) Investments under paragraphs 1 through 20 and paragraphs 29 through ~~30.(A)~~ 31 of this subsection are subject to the general conditions, limitations, and standards contained in paragraphs 21 through 28 of this subsection.

21. Investments in obligations (other than real estate mortgage indebtedness) and capital stock of, and in real estate and tangible personal property leased to, a single corporation, shall not exceed two percent (2%) of the life insurance company's admitted assets, taking into account the provisions of section 2.2(h) of this chapter. The conditions and limitations of this paragraph shall not apply to investments under paragraph 13(A) of this subsection or the special area of investment to which paragraph 23 of this subsection pertains.

22. Investments in:

- (a) preferred stock; and
- (b) common stock;

shall not, in the aggregate, exceed twenty percent (20%) of the life insurance company's admitted assets, exclusive of assets held in segregated accounts of the nature defined in class 1(c) of IC 27-1-5-1. These limitations shall not apply to investments for the special purposes described in paragraph 23 of this subsection nor to investments in connection with segregated accounts provided for in class 1(c) of IC 27-1-5-1.

23. Investments in subsidiary companies must be made in accordance with IC 27-1-23-2.6.

24. No investment, other than commercial bank deposits and loans on life insurance policies, shall be made unless authorized by the life insurance company's board of directors or a committee designated by the board of directors and charged with the duty of supervising loans or investments.

25. No life insurance company shall subscribe to or participate in any syndicate or similar underwriting of the purchase or sale of securities or property or enter into any transaction for such purchase or sale on account of said company, jointly with any other corporation, firm, or person, or enter into any agreement to withhold from sale any of its securities or property, but the disposition of its assets shall at all times be within its control. Nothing contained in this paragraph shall be construed to invalidate or prohibit an agreement by two (2) or more companies to join and share in the purchase of investments for bona fide investment purposes.

26. No life insurance company may invest in the stocks or obligations, except investments under paragraphs 9 and 10 of this subsection, of any corporation in which an officer of such life insurance company is either an officer or director. However, this limitation shall not apply with respect to such investments in:

- (a) a corporation which is a subsidiary or affiliate of such life insurance company; or
- (b) a trade association, provided such investment meets the requirements of paragraph 5 of this subsection.

27. Except for the purpose of mutualization provided for in section 23 of this chapter, or for the purpose of retirement of outstanding shares of capital stock pursuant to amendment of its articles of incorporation, or in connection with a plan approved by the commissioner for purchase of such shares by the life insurance company's officers, employees, or agents, no life insurance company shall invest in its own stock.

28. In applying the conditions, limitations, and standards prescribed in paragraphs 11, 12, and 13 of this subsection to the stocks or obligations of a corporation which in the seven (7) year period preceding purchase of such stocks or obligations acquired its property or a substantial part thereof through consolidation, merger, or purchase, the earnings of the several predecessors or constituent corporations shall be consolidated.

29. A. Before a life insurance company may engage in securities lending transactions, repurchase transactions, reverse repurchase transactions, or dollar roll transactions, the life insurance company's board of directors must adopt a written plan that includes guidelines and objectives to be followed, including the following:

- (1) A description of how cash received will be invested or used for general corporate purposes of the company.
- (2) Operational procedures for managing interest rate risk, counterparty default risk, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction.
- (3) A statement of the extent to which the company may engage in securities lending transactions, repurchase transactions, reverse repurchase transactions, and dollar roll transactions.

B. A life insurance company must enter into a written agreement for all transactions authorized by this paragraph, other than dollar roll transactions. The written agreement:

- (1) must require the termination of each transaction not more than one (1) year after its inception or upon the earlier demand of the company; and
- (2) must be with the counterparty business entity, except that, for securities lending transactions, the agreement may be with an agent acting on behalf of the life insurance company if:

(A) the agent is:

- (i) a business entity, the obligations of which are rated BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office;
- (ii) a business entity that is a primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York; or
- (iii) any other business entity approved by the commissioner; and

(B) the agreement requires the agent to enter into with each counterparty separate agreements that are consistent with the requirements of this paragraph.

C. Cash received in a transaction under this paragraph shall be:

- (1) invested:
 - (A) in accordance with this section 2; and
 - (B) in a manner that recognizes the liquidity needs of the transaction; or
- (2) used by the life insurance company for its general corporate purposes.

D. For as long as a transaction under this paragraph remains outstanding, the life insurance company or its agent or custodian shall maintain, as to acceptable collateral received in the transaction, either physically or through book entry systems of the Federal Reserve, the Depository Trust Company, the Participants Trust Company, or another securities depository approved by the commissioner:

- (1) possession of the acceptable collateral;
 - (2) a perfected security interest in the acceptable collateral; or
 - (3) in the case of a jurisdiction outside the United States:
 - (A) title to; or
 - (B) rights of a secured creditor to;
- the acceptable collateral.

E. The limitations set forth in paragraphs 17 and 21 of this subsection do not apply to transactions under this paragraph 29. For purposes of calculations made to determine compliance with this paragraph, no effect may be given to the future obligation of the life insurance company to:

- (1) resell securities, in the case of a repurchase transaction; or
- (2) repurchase securities, in the case of a reverse repurchase transaction.

F. A life insurance company shall not enter into a transaction under this paragraph if, as a result of the transaction, and after giving effect to the transaction:

- (1) the aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity under this paragraph would exceed five percent (5%) of the company's admitted assets (but in calculating the amount sold to or purchased from a business entity under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement); or
- (2) the aggregate amount of all securities then loaned, sold to, or

purchased from all business entities under this paragraph would exceed forty percent (40%) of the admitted assets of the company (provided, however, that this limitation does not apply to a reverse repurchase transaction if the borrowing is used to meet operational liquidity requirements resulting from an officially declared catastrophe and is subject to a plan approved by the commissioner).

G. The following collateral requirements apply to all transactions under this paragraph:

(1) In a securities lending transaction, the life insurance company must receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent (102%) of the market value of the securities loaned by the company in the transaction as of that date. If at any time the market value of the acceptable collateral received from a particular business entity is less than the market value of all securities loaned by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all securities lending transactions with that business entity, equals at least one hundred two percent (102%) of the market value of the loaned securities.

(2) In a reverse repurchase transaction, other than a dollar roll transaction, the life insurance company must receive acceptable collateral having a market value as of the transaction date equal to at least ninety-five percent (95%) of the market value of the securities transferred by the company in the transaction as of that date. If at any time the market value of the acceptable collateral received from a particular business entity is less than ninety-five percent (95%) of the market value of all securities transferred by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all reverse repurchase transactions with that business entity, equals at least ninety-five percent (95%) of the market value of the transferred securities.

(3) In a dollar roll transaction, the life insurance company must receive cash in an amount at least equal to the market value of the securities transferred by the company in the transaction as of the transaction date.

(4) In a repurchase transaction, the life insurance company must receive acceptable collateral having a market value equal to at least one hundred two percent (102%) of the purchase price paid by the company for the securities. If at any time the market value of the acceptable collateral received from a particular business entity is less than one hundred percent (100%) of the purchase price paid by the life insurance company in all repurchase transactions with that business entity, the business entity shall be obligated to provide additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all repurchase transactions with that business entity, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a life insurance company in a repurchase transaction shall not be:

- (A) sold in a reverse repurchase transaction;
- (B) loaned in a securities lending transaction; or
- (C) otherwise pledged.

30. A life insurance company may invest in obligations or interests in trusts or partnerships regardless of the issuer, which are secured by:

- (a) investments authorized by paragraphs 1, 2, 3, 4, or 11 of this subsection; or
- (b) collateral with the characteristics and limitations prescribed for loans under paragraph 5 of this subsection.

For the purposes of this paragraph 30, collateral may be substituted for other collateral if it is in the same amount with the same or greater interest rate and qualifies as collateral under subparagraph (a) or (b) of this paragraph.

~~30.(A)~~ **31.** A life insurance company may invest in obligations or interests in trusts or partnerships, regardless of the issuer, secured by any form of collateral other than that described in subparagraphs (a) and (b) of paragraph 30 of this subsection, which obligations or interests in trusts or partnerships are rated:

- (a) A- or higher by Standard & Poor's Corporation or Duff and

Phelps, Inc.;

(b) A 3 or higher by Moody's Investor Service, Inc.; or

(c) 1 by the Securities Valuation Office.

Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

~~31.~~ **32.** A. A life insurance company may invest in short-term pooling arrangements as provided in this paragraph.

B. The following definitions apply throughout this paragraph:

(1) "Affiliate" means, as to any person, another person that, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with the person.

(2) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or non-management services), or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent (10%) or more of the voting securities of another person. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may determine, after furnishing all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(3) "Qualified bank" means a national bank, state bank, or trust company that at all times is not less than adequately capitalized as determined by standards adopted by United States banking regulators and that is either regulated by state banking laws or is a member of the Federal Reserve System.

C. A life insurer may participate in investment pools qualified under this paragraph that invest only in:

(1) obligations that are rated BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff

and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office, and have:

(A) a remaining maturity of three hundred ninety-seven (397) days or less or a put that entitles the holder to receive the principal amount of the obligation which put may be exercised through maturity at specified intervals not exceeding three hundred ninety-seven (397) days; or

(B) a remaining maturity of three (3) years or less and a floating interest rate that resets not less frequently than quarterly on the basis of a current short-term index (for example, federal funds, prime rate, treasury bills, London InterBank Offered Rate (LIBOR) or commercial paper) and is not subject to a maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;

(2) government money market mutual funds or class one money market mutual funds; or

(3) securities lending, repurchase, and reverse repurchase and dollar roll transactions that meet the requirements of paragraph 29 of this subsection and any applicable regulations of the department;

provided that the investment pool shall not acquire investments in any one (1) business entity that exceed ten percent (10%) of the total assets of the investment pool.

D. For an investment pool to be qualified under this paragraph, the investment pool shall not:

(1) acquire securities issued, assumed, guaranteed, or insured by the life insurance company or an affiliate of the company; or

(2) borrow or incur any indebtedness for borrowed money, except for securities lending, reverse repurchase, and dollar roll transactions that meet the requirements of paragraph 29 of this subsection.

E. A life insurance company shall not participate in an investment pool qualified under this paragraph if, as a result of and after giving effect to the participation, the aggregate amount of participation then held by the company in all investment pools under this paragraph and section 2.4 of this chapter would exceed thirty-five percent (35%) of its admitted assets.

F. For an investment pool to be qualified under this paragraph:

(1) the manager of the investment pool must:

(A) be organized under the laws of the United States, a state or territory of the United States, or the District of Columbia, and designated as the pool manager in a pooling agreement; and

(B) be the life insurance company, an affiliated company, a business entity affiliated with the company, or a qualified bank or a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. ~~80a-1~~ **80a-1** et seq.);

(2) the pool manager or an entity designated by the pool manager of the type set forth in subdivision (1) of this subparagraph F shall compile and maintain detailed accounting records setting forth:

(A) the cash receipts and disbursements reflecting each participant's proportionate participation in the investment pool;

(B) a complete description of all underlying assets of the investment pool (including amount, interest rate, maturity date (if any) and other appropriate designations); and

(C) other records which, on a daily basis, allow third parties to verify each participant's interest in the investment pool; and

(3) the assets of the investment pool shall be held in one (1) or more accounts, in the name of or on behalf of the investment pool, under a custody agreement or trust agreement with a qualified bank, which must:

(A) state and recognize the claims and rights of each participant;

(B) acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its participation in the investment pool; and

(C) contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the qualified bank or any other person.

G. The pooling agreement for an investment pool qualified under this paragraph must be in writing and must include the following provisions:

(1) Insurers, subsidiaries, or affiliates of insurers holding interests in the pool, or any pension or profit sharing plan of such insurers or their subsidiaries or affiliates, shall, at all times, hold one

hundred percent (100%) of the interests in the investment pool.

(2) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person.

(3) In proportion to the aggregate amount of each pool participant's interest in the investment pool:

(A) each participant owns an undivided interest in the underlying assets of the investment pool; and

(B) the underlying assets of the investment pool are held solely for the benefit of each participant.

(4) A participant or (in the event of the participant's insolvency, bankruptcy, or receivership) its trustee, receiver, or other successor-in-interest may withdraw all or any portion of its participation from the investment pool under the terms of the pooling agreement.

(5) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter. Payments upon withdrawals under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide for such payments to be made to the participants in one

(1) of the following forms, at the discretion of the pool manager:

(A) in cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

(B) in kind, a pro rata share of each underlying asset; or

(C) in a combination of cash and in kind distributions, a pro rata share in each underlying asset.

(6) The records of the investment pool shall be made available for inspection by the commissioner.

SECTION 2. IC 27-1-13-3, AS AMENDED BY P.L.1-2002, SECTION 104, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The following definitions apply throughout this section:

(1) "Acceptable collateral" means the following:

(A) As to securities lending transactions and for the purpose of calculating counterparty exposure:

(i) cash;

- (ii) cash equivalents;
 - (iii) letters of credit; and
 - (iv) direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.
- (B) As to lending foreign securities, sovereign debt rated 1 by the Securities Valuation Office.
- (C) As to repurchase transactions:
- (i) cash;
 - (ii) cash equivalents; and
 - (iii) direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.
- (D) As to reverse repurchase transactions:
- (i) cash; and
 - (ii) cash equivalents.
- (2) "Admitted assets" means assets permitted to be reported as admitted assets on the statutory financial statement of the insurer most recently required to be filed with the commissioner.
- (3) "Business entity" means any of the following:
- (A) A sole proprietorship.
 - (B) A corporation.
 - (C) A limited liability company.
 - (D) An association.
 - (E) A general partnership.
 - (F) A limited partnership.
 - (G) A limited liability partnership.
 - (H) A joint stock company.
 - (I) A joint venture.
 - (J) A trust.
 - (K) A joint tenancy.
 - (L) Any other similar form of business organization, whether for profit or nonprofit.
- (4) "Cash" means any of the following:

- (A) United States denominated paper currency and coins.
 - (B) Negotiable money orders and checks.
 - (C) Funds held in any time or demand deposit in any depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.
- (5) "Cash equivalent" means any of the following:
- (A) A certificate of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.
 - (B) A banker's acceptance issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.
 - (C) A government money market mutual fund.
 - (D) A class one (1) money market mutual fund.
- (6) "Class one (1) money market mutual fund" means a money market mutual fund that at all times qualifies for investment using the bond class one (1) reserve factor pursuant to the Purposes and Procedures of the Securities Valuation Office of the National Association of Insurance Commissioners or any successor publication.
- (7) "Government money market mutual fund" means a money market mutual fund that at all times:
- (A) invests only in obligations issued, guaranteed, or insured by the United States or collateralized repurchase agreements composed of these obligations; and
 - (B) qualifies for investment without a reserve pursuant to the Purposes and Procedures of the Securities Valuation Office of the National Association of Insurance Commissioners or any successor publication.
- (8) "Money market mutual fund" means a mutual fund that meets the conditions of 17 CFR 270.2a-7, under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- (9) "Mutual fund" means:
- (A) an investment company; or
 - (B) in the case of an investment company that is organized as a series company, an investment company series;
- that is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15

U.S.C. 80a-1 et seq.).

(10) "Obligation" means any of the following:

- (A) A bond.
- (B) A note.
- (C) A debenture.
- (D) Any other form of evidence of debt.

(11) "Qualified business entity" means a business entity that is:

- (A) an issuer of obligations or preferred stock that is rated one (1) or two (2) or is rated the equivalent of one (1) or two (2) by the Securities Valuation Office or by a nationally recognized statistical rating organization recognized by the Securities Valuation Office; or
- (B) a primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York.

(12) "Securities Valuation Office" refers to the Securities Valuation Office of the National Association of Insurance Commissioners or any successor of the Office established by the National Association of Insurance Commissioners.

(b) Any company, other than one organized as a life insurance company, organized under the provisions of IC 27-1 or any other law of this state and authorized to make any or all kinds of insurance described in class 2 or class 3 of IC 27-1-5-1 shall invest its capital or guaranty fund as follows and not otherwise:

- (1) In cash.
- (2) In:
 - (A) direct obligations of the United States; or
 - (B) obligations secured or guaranteed as to principal and interest by the United States.
- (3) In:
 - (A) direct obligations; or
 - (B) obligations secured by the full faith and credit;
of any state of the United States or the District of Columbia.
- (4) In obligations of any county, township, city, town, village, school district, or other municipal district within the United States which are a direct obligation of the county, township, city, town, village, or district issuing the same.
- (5) In obligations secured by mortgages or deeds of trust or unencumbered real estate or perpetual leases thereon in the

United States not exceeding eighty percent (80%) of the fair value of the security determined in a manner satisfactory to the department, except that the percentage stated may be exceeded if and to the extent such excess is guaranteed or insured by the United States, any state, territory, or possession of the United States, the District of Columbia, Canada, any province of Canada, or by an administration, agency, authority, or instrumentality of any such governmental units. Where improvements on the land constitute a part of the value on which the loan is made, the improvements shall be insured against fire and tornado for the benefit of the mortgagee. For the purposes of this section, real estate may not be deemed to be encumbered by reason of the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights-of-way, joint driveways, sewer rights, rights-in-walls, nor by reason of building restrictions, or other restrictive covenants, nor when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner. The restrictions contained in this subdivision do not apply to loans or investments made under section 5 of this chapter.

(c) Any company organized under the provisions of this article or any other law of this state and authorized to make any or all of the kinds of insurance described in class 2 or class 3 of IC 27-1-5-1 shall invest its funds over and above its required capital stock or required guaranty fund as follows, and not otherwise:

- (1) In cash or cash equivalents. However, not more than ten percent (10%) of admitted assets may be invested in any single government money market mutual fund or class one (1) money market mutual fund.
- (2) In direct obligations of the United States or obligations secured or guaranteed as to principal and interest by the United States.
- (3) In obligations issued, guaranteed, or insured as to principal and interest by a city, county, drainage district, road district, school district, tax district, town, township, village or other civil administration, agency, authority, instrumentality or subdivision of a state, territory, or possession of the United States, the District of Columbia, Canada, or any province of Canada, providing such

obligations are authorized by law and are either:

- (A) direct and general obligations of the issuing, guaranteeing, or insuring governmental unit, administration, agency, authority, district, subdivision, or instrumentality;
- (B) payable from designated revenues pledged to the payment of the principal and interest of the obligations; or
- (C) improvement bonds or other obligations constituting a first lien, except for tax liens, against all of the real estate within the improvement district or on that part of such real estate not discharged from such lien through payment of the assessment.

The area to which the improvement bonds or other obligations under clause (C) relate must be situated within the limits of a town or city and at least fifty percent (50%) of the properties within that area must be improved with business buildings or residences.

(4) In:

- (A) direct obligations; or
- (B) obligations secured by the full faith and credit;

of any state of the United States, the District of Columbia, or Canada or any province thereof.

(5) In obligations guaranteed, supported, or insured as to principal and interest by the United States, any state, territory, or possession of the United States, the District of Columbia, Canada, any province of Canada, or by an administration, agency, authority, or instrumentality of any of the political units listed in this subdivision. An obligation is "supported" for the purposes of this subdivision when repayment of the obligation is secured by real or personal property of value at least equal to the principal amount of the indebtedness by means of mortgage, assignment of vendor's interest in one (1) or more conditional sales contracts, other title retention device, or by means of other security interest in the property for the benefit of the holder of the obligation, and one (1) of the political units listed in this subdivision, or an administration, agency, authority, or instrumentality listed in this subdivision, has entered into a firm agreement to rent or use the property pursuant to which entity is obligated to pay money as rental or for the use of the property in amounts and at times that are sufficient, after provision for taxes upon and for other

expenses of the use of the property, to repay in full the indebtedness, both principal and interest, and when the firm agreement and the money obligated to be paid under the agreement are assigned, pledged, or secured for the benefit of the holder of the obligation. However, where the security consists of a first mortgage lien or deed of trust on a fee interest in real property, the obligation may provide for the amortization, during the initial fixed period of the lease or contract of less than one hundred percent (100%) of the indebtedness if there is pledged or assigned, as additional security for the obligation, sufficient rentals payable under the lease, or of contract payments, to secure the amortized obligation payments required during the initial, fixed period of the lease or contract, including but not limited to payments of principal, interest, and taxes other than the income taxes of the borrower, and if there is to be left unamortized at the end of the period an amount not greater than the original appraised value of the land only, exclusive of all improvements, as prescribed by law.

(6) In obligations secured by mortgages or deeds of trust or unencumbered real estate or perpetual leases thereon, in any state in the United States, the District of Columbia, Canada, or any province of Canada, not exceeding eighty percent (80%) of the fair value of the security determined in a manner satisfactory to the department, except that the percentage stated may be exceeded if and to the extent that the excess is guaranteed or insured by the United States, any state, territory, or possession of the United States, the District of Columbia, Canada, any province of Canada, or by an administration, agency, authority, or instrumentality of any of such governmental units. The value of the real estate must be determined by a method and in a manner satisfactory to the department. The restrictions contained in this subdivision do not apply to loans or investments made under section 5 of this chapter.

(7) In obligations issued under or pursuant to the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on December 31, 1990, or the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) as in effect on December 31, 1990, interest bearing obligations of the FSLIC Resolution Fund and

shares of any institution that is insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation to the extent that the shares are insured, obligations issued or guaranteed by the International Bank for Reconstruction and Development, obligations issued or guaranteed by the Inter-American Development Bank, and obligations issued or guaranteed by the African Development Bank.

(8) In any mutual fund that:

- (A) has been registered with the Securities and Exchange Commission for a period of at least five (5) years immediately preceding the date of purchase;
- (B) has net assets of at least twenty-five million dollars (\$25,000,000) on the date of purchase; and
- (C) invests substantially all of its assets in investments permitted under this subsection.

The amount invested in any single mutual fund shall not exceed ten percent (10%) of admitted assets. The aggregate amount of investments under this subdivision may be limited by the commissioner if the commissioner finds that investments under this subdivision may render the operation of the company hazardous to the company's policyholders, to the company's creditors, or to the general public. This subdivision in no way limits or restricts investments that are otherwise specifically permitted under this section.

(9) In obligations payable in United States dollars and issued, guaranteed, assumed, insured, or accepted by a foreign government or by a solvent business entity existing under the laws of a foreign government, if the obligations of the foreign government or business entity meet at least one (1) of the following criteria:

- (A) The obligations carry a rating of at least A3 conferred by Moody's Investor Services, Inc.
- (B) The obligations carry a rating of at least A- conferred by Standard & Poor's Corporation.
- (C) The earnings available for fixed charges of the business entity for a period of five (5) fiscal years preceding the date of purchase have averaged at least three (3) times the average fixed charges of the business entity applicable to the period,

and if during either of the last two (2) years of the period, the earnings available for fixed charges were at least three (3) times the fixed charges of the business entity for the year. As used in this subdivision, the terms "earnings available for fixed charges" and "fixed charges" have the meanings set forth in IC 27-1-12-2(a).

Foreign investments authorized by this subdivision shall not exceed twenty percent (20%) of the company's admitted assets. This subdivision in no way limits or restricts investments that are otherwise specifically permitted under this section. Canada is not a foreign government for purposes of this subdivision.

(10) In the obligations of any solvent business entity existing under the laws of the United States, any state of the United States, the District of Columbia, Canada, or any province of Canada, provided that interest on the obligations is not in default.

(11) In the preferred or guaranteed shares of any solvent business entity, so long as the business entity is not and has not been for the preceding five (5) years in default in the payment of interest due and payable on its outstanding debt or in arrears in the payment of dividends on any issue of its outstanding preferred or guaranteed stock.

(12) In the shares, other than those specified in subdivision (7), of any solvent business entity existing under the laws of any state of the United States, the District of Columbia, Canada, or any province of Canada, and in the shares of any institution wherever located which has the insurance protection provided by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation. Except for the purpose of mutualization or for the purpose of retirement of outstanding shares of capital stock pursuant to amendment of its articles of incorporation, or in connection with a plan approved by the commissioner for purchase of such shares by the insurance company's officers, employees, or agents, or for the elimination of fractional shares, no company subject to the provisions of this section may invest in its own stock.

(13) In loans upon the pledge of any mortgage, stocks, bonds, or other evidences of indebtedness, acceptable as investments under the terms of this chapter, if the current value of the mortgage,

stock, bond, or other evidences of indebtedness is at least twenty-five percent (25%) more than the amount loaned on it.

(14) In real estate, subject to subsections (d) and (e).

(15) In securities lending, repurchase, and reverse repurchase transactions with business entities, subject to the following requirements:

(A) The company's board of directors shall adopt a written plan that specifies guidelines and objectives to be followed, such as:

(i) a description of how cash received will be invested or used for general corporate purposes of the company;

(ii) operational procedures to manage interest rate risk, counterparty default risk, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction; and

(iii) the extent to which the company may engage in these transactions.

(B) The company shall enter into a written agreement for all transactions authorized in this subdivision. The written agreement shall require the termination of each transaction not more than one (1) year from its inception or upon the earlier demand of the company. The agreement shall be with the counterparty business entity but, for securities lending transactions, the agreement may be with an agent acting on behalf of the company if the agent is a qualified business entity and if the agreement:

(i) requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

(ii) prohibits securities lending transactions under the agreement with the agent or its affiliates.

(C) Cash received in a transaction under this section shall be invested in accordance with this section and in a manner that recognizes the liquidity needs of the transaction or used by the company for its general corporate purposes. For as long as the transaction remains outstanding, the company or its agent or custodian shall maintain, as to acceptable collateral received in a transaction under this section, either physically or through

book entry systems of the Federal Reserve, Depository Trust Company, Participants Trust Company, or other securities depositories approved by the commissioner:

- (i) possession of the acceptable collateral;
- (ii) a perfected security interest in the acceptable collateral;
- or
- (iii) in the case of a jurisdiction outside the United States, title to, or rights of a secured creditor to, the acceptable collateral.

(D) For purposes of calculations made to determine compliance with this subdivision, no effect may be given to the company's future obligation to resell securities in the case of a repurchase transaction, or to repurchase securities in the case of a reverse repurchase transaction. A company shall not enter into a transaction under this subdivision if, as a result of and after giving effect to the transaction:

- (i) the aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity pursuant to this subdivision would exceed five percent (5%) of its admitted assets (but, in calculating the amount sold to or purchased from a business entity pursuant to repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement); or
- (ii) the aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this subdivision would exceed forty percent (40%) of its admitted assets.

(E) In a securities lending transaction, the company shall receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent (102%) of the market value of the securities loaned by the company in the transaction as of that date. If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals one hundred two percent (102%) of

the market value of the loaned securities.

(F) In a reverse repurchase transaction, the company shall receive acceptable collateral having a market value as of the transaction date at least equal to ninety-five percent (95%) of the market value of the securities transferred by the company in the transaction as of that date. If at any time the market value of the acceptable collateral is less than ninety-five percent (95%) of the market value of the securities so transferred, the business entity shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, equals at least ninety-five percent (95%) of the market value of the transferred securities.

(G) In a repurchase transaction, the company shall receive as acceptable collateral transferred securities having a market value equal to at least one hundred two percent (102%) of the purchase price paid by the company for the securities. If at any time the market value of the acceptable collateral is less than one hundred percent (100%) of the purchase price paid by the company, the business entity shall be obligated to provide additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a company in a repurchase transaction shall not be sold in a reverse repurchase transaction, loaned in a securities lending transaction, or otherwise pledged.

(16) In mortgage backed securities, including collateralized mortgage obligations, mortgage pass through securities, mortgage backed bonds, and real estate mortgage investment conduits, adequately secured by a pool of mortgages, which mortgages are fully guaranteed or insured by the government of the United States or any agency of the United States, including the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(17) In mortgage backed securities, including collateralized mortgage obligations, mortgage pass through securities, mortgage

backed bonds, and real estate mortgage investment conduits, adequately secured by a pool of mortgages, if the securities carry a rating of at least:

(A) A3 conferred by Moody's Investor Services, Inc.; or

(B) A- conferred by Standard & Poor's Corporation.

The amount invested in any one (1) obligation or pool of obligations described in this subdivision shall not exceed five percent (5%) of admitted assets. The aggregate amount of all investments under this subdivision shall not exceed ten percent (10%) of admitted assets.

(18) Any other investment acquired in good faith as payment on account of existing indebtedness or in connection with the refinancing, restructuring, or workout of existing indebtedness, if taken to protect the interests of the company in that investment.

(19) In obligations or interests in trusts or partnerships in which a life insurance company may invest as described in paragraph 31 of IC 27-1-12-2(b). Investments authorized by this paragraph may not exceed ten percent (10%) of the company's admitted assets.

(20) In any other investment. The total of all investments under this subdivision, except for investments in subsidiary companies under IC 27-1-23-2.6, may not exceed an aggregate amount of ten percent (10%) of the insurer's admitted assets. Investments are not permitted under this subdivision:

(A) if expressly prohibited by statute; or

(B) in an insolvent organization or an organization in default with respect to the payment of principal or interest on its obligations.

(d) Any company subject to the provisions of this section shall have power to acquire, hold, or convey real estate, or an interest therein, as described below, and no other:

(1) Leaseholds, provided the mortgage term shall not exceed four-fifths (4/5) of the unexpired lease term, including enforceable renewable options, remaining at the time of the loan, such real estate or leaseholds to be located in the United States, any territory or possession of the United States, or Canada, the value of such leasehold for statement purposes shall be determined in a manner and form satisfactory to the department.

At the time the leasehold is acquired and approved by the department, a schedule of annual depreciation shall be set up by the department in which the value of said leasehold is to be depreciated, and said depreciation is to be averaged out over not exceeding a period of fifty (50) years.

(2) The building in which it has its principal office and the land on which it stands.

(3) Such as shall be necessary for the convenient transaction of its business.

(4) Such as shall have been acquired for the accommodation of its business.

(5) Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for money due.

(6) Such as shall have been conveyed to it in connection with its investments in real estate contracts or its investments in real estate under lease or for the purpose of leasing or such as shall have been acquired for the purpose of investment under any law, order, or regulation authorizing such investment, for statement purposes, the value of such real estate shall be determined in a manner satisfactory to the department.

(7) Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or in exchange for real estate so conveyed to it.

(8) Such as it shall have purchased at sales on judgments, decrees, or mortgages obtained or made for such debts.

(e) All real estate described in subsection (d)(4) through (d)(8) which is not necessary for the convenient transaction of its business shall be sold by said company and disposed of within ten (10) years after it acquired title to the same, or within five (5) years after the same has ceased to be necessary for the accommodation of its business, unless the company procures the certificate of the commissioner that its interests will suffer materially by a forced sale of the real estate, in which event the time for the sale may be extended to such time as the commissioner directs in the certificate.

P.L.41-2004

[H.1178. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 29-3-1-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16. "Volunteer advocate for seniors" means an individual who:**

- (1) is a volunteer;**
- (2) has completed a limited guardian training program approved by a court;**
- (3) is supervised by a community volunteer advocates for seniors program;**
- (4) is appointed by a court to serve as a limited guardian for an incapacitated person or protected person who is at least fifty-five (55) years of age; and**
- (5) provides reports and makes recommendations to a court.**

SECTION 2. IC 29-3-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 8.5. Volunteer Advocates for Seniors

Sec. 1. A court in a proceeding under this article may appoint a volunteer advocate for seniors.

Sec. 2. A volunteer advocate for seniors shall submit to the court:

- (1) a progress report fifteen (15) days after the date of appointment describing the matters required by the court; and**
- (2) a final report sixty (60) days after the date of appointment:**
 - (A) describing the matters required by the court; and**
 - (B) making recommendations to the court as to whether a need exists for continued representation of the incapacitated or protected person.**

Sec. 3. A volunteer advocate for seniors shall:

- (1) serve as a limited guardian to represent and protect the interests of an incapacitated or protected person who is at least fifty-five (55) years of age;**
- (2) investigate and gather information regarding the health, welfare and financial circumstances of the incapacitated or protected person, as directed by a court;**
- (3) facilitate and authorize health care, social welfare, and residential placement services as needed by the incapacitated or protected person;**
- (4) advocate for the rights of the incapacitated or protected person;**
- (5) facilitate legal representation for the incapacitated or protected person; and**
- (6) perform any other duty required by a court.**

Sec. 4. A volunteer advocate for seniors may:

- (1) consent to medical and other professional care and treatment for the incapacitated or protected person's health and welfare;**
- (2) secure the appointment of a guardian or coguardian in another state;**
- (3) take custody of the incapacitated or protected person and establish the person's place of abode within Indiana or another state in accordance with IC 29-3-9-2;**
- (4) institute proceedings or take other appropriate action to compel the performance by any person of a duty to support the incapacitated or protected person's health or welfare; and**
- (5) delegate to the incapacitated or protected person certain responsibilities for decisions affecting the person's business affairs and well-being.**

Sec. 5. If a court appoints an individual to serve as a volunteer advocate for seniors, the appointment shall be for a period of sixty (60) days. After the initial sixty (60) day period, the court may, upon petition by the volunteer or upon the court's own motion, extend the appointment for a period as determined by the court to be necessary to protect the interests of the incapacitated or protected person.

Sec. 6. A volunteer advocate for seniors is considered an officer of the court for the purpose of representing the interests of an

incapacitated or protected person.

Sec. 7. The court may appoint an attorney to represent a volunteer advocate for seniors.

Sec. 8. Except for gross misconduct:

- (1) a volunteer advocate for seniors program that;
- (2) an employee of a volunteer advocates for seniors program who; or
- (3) a volunteer for a volunteer advocates for seniors program who;

performs duties in good faith is immune from any civil liability resulting from the program's, employee's, or volunteer's performance.

Sec. 9. A volunteer advocate for seniors under this chapter is not authorized to consent to or refuse health care (as defined in IC 16-36-1-1) for an individual if:

- (1) a spouse, a parent, an adult child, or an adult sibling of the individual or the individual's religious superior, if the individual is a member of a religious order, is available, capable, and suitable to consent to or refuse the health care on behalf of the individual; or
- (2) the individual has previously:
 - (A) appointed a health care representative under IC 16-36-1;
 - (B) authorized health care under IC 16-36-1.5, IC 16-36-4, or IC 16-36-5;
 - (C) executed a power of attorney under IC 30-5-4; or
 - (D) had a guardian appointed by the court under IC 29-3.

SECTION 3. IC 29-3-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A guardian (other than a temporary guardian) **or volunteer advocate for seniors appointed under IC 29-3-8.5** may, with the approval of and under such conditions as may be imposed by the court after notice and hearing, change the physical presence of the protected person to another place in Indiana or to another state if the court finds that such a change is in the best interests of the protected person. Upon such a change, the guardianship may be limited or terminated by the court.

SECTION 4. IC 29-3-11-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2004]: **Sec. 4. Except as provided in section 2 of this chapter and except for gross misconduct, a guardian appointed under this article is immune from any civil liability resulting from the guardian's performance.**

SECTION 5. IC 34-30-2-125.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 125.5. IC 29-3-8.5-9 (Concerning a volunteer advocate for seniors).**

SECTION 6. IC 34-30-2-126.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 126.5. IC 29-3-11-4 (Concerning a guardian appointed under IC 29-3-5).**

P.L.42-2004

[H.1190. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1-8.3 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.3. Public Utility Employees; Utility Service Interruption Emergencies

Sec. 1. As used in this chapter, "commercial driver's license" has the meaning set forth in IC 9-13-2-29.

Sec. 2. As used in this chapter, "commercial motor vehicle" has the meaning set forth in IC 9-13-2-31.

Sec. 3. As used in this chapter, "public utility" has the meaning set forth in IC 8-1-2-1(a).

Sec. 4. As used in this chapter, "utility service interruption emergency" means an outage or interruption of utility service in Indiana, including a near term threat or occurrence of a

meteorological or other condition reasonably likely to result in outages or service interruption. A utility service interruption emergency:

(1) is declared to exist within the meaning of 49 CFR 390.23 when a public utility receives:

(A) notice of or a request to respond to an outage or a service interruption; or

(B) notice of the existence of conditions reasonably likely to result in an outage or a service interruption; and

(2) continues until:

(A) the necessary maintenance or repair work is completed; and

(B) personnel used to perform necessary maintenance or repair work have returned to their respective normal work routines.

Sec. 5. As used in this chapter, "utility service vehicle" has the meaning set forth in 49 CFR 395.2.

Sec. 6. An individual who:

(1) is the holder of a commercial driver's license;

(2) is:

(A) an employee;

(B) an employee of a contractor; or

(C) an employee of a subcontractor;

of a public utility in an employment capacity in which the commercial driver's license is used; and

(3) operates a commercial motor vehicle as a utility service vehicle and engages in intrastate maintenance or repair work in response to a utility service interruption emergency;

is exempt from any regulation of the maximum hours of service that the employee may work under 49 CFR 395.

SECTION 2. An emergency is declared for this act.

P.L.43-2004

[H.1197. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-37-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) This section applies to a criminal action ~~under the following:~~ **involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):**

- (1) Sex crimes (IC 35-42-4).
- (2) Battery upon a child (IC 35-42-2-1(2)(B)).
- (3) Kidnapping and confinement (IC 35-42-3).
- (4) Incest (IC 35-46-1-3).
- (5) Neglect of a dependent (IC 35-46-1-4).
- (6) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through (5).

(b) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(3):

- (1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).**
- (2) A sex crime (IC 35-42-4).**
- (3) Battery (IC 35-42-2-1).**
- (4) Kidnapping, confinement, or interference with custody (IC 35-42-3).**
- (5) Home improvement fraud (IC 35-42-6).**
- (6) Fraud (IC 35-43-5).**
- (7) Identity deception (IC 35-43-5-3.5).**
- (8) Theft (IC 35-43-4-2).**
- (9) Conversion (IC 35-43-4-3).**
- (10) Neglect of a dependent (IC 35-46-1-4).**

(c) As used in this section, "protected person" means:

- (1) a child who is less than fourteen (14) years of age; ~~or~~

(2) a mentally disabled individual who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

- (A) is manifested before the individual is eighteen (18) years of age;
- (B) is likely to continue indefinitely;
- (C) constitutes a substantial impairment of the individual's ability to function normally in society; and
- (D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; **or**

(3) an individual who is:

- (A) at least eighteen (18) years of age; and**
- (B) incapable by reason of mental illness, mental retardation, dementia, or other physical or mental incapacity of:**
 - (i) managing or directing the management of the individual's property; or**
 - (ii) providing or directing the provision of self-care.**

(c) (d) A statement or videotape that:

- (1) is made by a person who at the time of trial is a protected person;
- (2) concerns an act that is a material element of an offense listed in subsection (a) **or (b)** that was allegedly committed against the person; and
- (3) is not otherwise admissible in evidence;

is admissible in evidence in a criminal action for an offense listed in subsection (a) **or (b)** if the requirements of subsection **(d) (e)** are met.

(d) (e) A statement or videotape described in subsection **(c) (d)** is admissible in evidence in a criminal action listed in subsection (a) **or (b)** if, after notice to the defendant of a hearing and of ~~his~~ **the defendant's** right to be present, all of the following conditions are met:

- (1) The court finds, in a hearing:
 - (A) conducted outside the presence of the jury; and
 - (B) attended by the protected person;

that the time, content, and circumstances of the statement or videotape provide sufficient indications of reliability.

(2) The protected person:

(A) testifies at the trial; or

(B) is found by the court to be unavailable as a witness for one

(1) of the following reasons:

(i) From the testimony of a psychiatrist, physician, or psychologist, and other evidence, if any, the court finds that the protected person's testifying in the physical presence of the defendant will cause the protected person to suffer serious emotional distress such that the protected person cannot reasonably communicate.

(ii) The protected person cannot participate in the trial for medical reasons.

(iii) The court has determined that the protected person is incapable of understanding the nature and obligation of an oath.

~~(e)~~ **(f)** If a protected person is unavailable to testify at the trial for a reason listed in subsection ~~(d)(2)(B)~~; **(e)(2)(B)**, a statement or videotape may be admitted in evidence under this section only if the protected person was available for cross-examination:

(1) at the hearing described in subsection ~~(d)(1)~~; **(e)(1)**; or

(2) when the statement or videotape was made.

~~(f)~~ **(g)** A statement or videotape may not be admitted in evidence under this section unless the prosecuting attorney informs the defendant and the defendant's attorney at least ten (10) days before the trial of:

(1) ~~his~~ **the prosecuting attorney's** intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape.

~~(g)~~ **(h)** If a statement or videotape is admitted in evidence under this section, the court shall instruct the jury that it is for the jury to determine the weight and credit to be given the statement or videotape and that, in making that determination, the jury shall consider the following:

(1) The mental and physical age of the person making the statement or videotape.

(2) The nature of the statement or videotape.

(3) The circumstances under which the statement or videotape was made.

(4) Other relevant factors.

(i) If a statement or videotape described in subsection (d) is admitted into evidence under this section, a defendant may introduce a:

(1) transcript; or

(2) videotape;

of the hearing held under subsection (e)(1) into evidence at trial.

P.L.44-2004

[H.1200. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-18-8-6, AS ADDED BY P.L.181-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A county may establish a county domestic violence fatality review team for the purpose of reviewing a death resulting from domestic violence. The team shall review only those deaths in which the person who commits the act of domestic violence resulting in death:

(1) is charged with a criminal offense that results in final judgment; ~~of conviction;~~ or

~~(2) commits suicide:~~

~~(A) that is related in time, place, and circumstance to the death of the victim of domestic violence; and~~

~~(B) as determined by a coroner's certificate of death under IC 36-2-14-6 or death verdict under IC 36-2-14-10.~~

(2) is deceased.

(b) The legislative body (as defined in IC 36-1-2-9) of a county must determine by majority vote if the county will establish a local domestic violence fatality review team.

(c) If a county elects not to establish a county domestic violence fatality review team, the county may join with one (1) or more other

counties that have not established a county domestic violence fatality review team and form a regional domestic violence fatality review team.

(d) To establish a regional domestic violence fatality review team as described in subsection (c), the legislative body of each county comprising the region must cast a majority of votes in favor of establishing a regional domestic violence fatality review team.

SECTION 2. IC 12-18-8-10, AS AMENDED BY SEA 106-2004, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) A local domestic violence fatality review team consists of the following members:

- (1) A survivor of domestic violence.
- (2) A domestic violence direct service provider.
- (3) A representative of law enforcement from the area served by the local domestic violence fatality review team.
- (4) A prosecuting attorney or the prosecuting attorney's designee from the area served by the local domestic violence fatality review team.
- (5) An expert in the field of forensic pathology, **a coroner, or a deputy coroner.**
- (6) A medical practitioner with expertise in domestic violence.
- (7) A judge who hears civil or criminal cases.
- (8) An employee of a child protective services agency.

(b) If a local domestic violence fatality review team is established in one (1) county, the legislative body that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

- (1) adopt an ordinance for the appointment and reappointment of members of the local domestic violence fatality review team; and
- (2) appoint members to the local domestic violence fatality review team under the ordinance adopted.

(c) If a local domestic violence fatality review team is established in a region, the county legislative bodies that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

- (1) each adopt substantially similar ordinances for the appointment and reappointment of members of the local domestic violence fatality review team; and

(2) appoint members to the local domestic violence fatality review team under the ordinances adopted.

(d) A local domestic violence fatality review team may not have more than fifteen (15) members.

SECTION 3. IC 12-18-8-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16. In a criminal or civil proceeding or a disciplinary action by a state agency or municipal corporation (as defined in IC 36-1-2-10):**

(1) the testimony of a member of a local domestic fatality review team; or

(2) a report, record, or recommendation of a local domestic fatality review team;

is not admissible as evidence if the testimony or the report, record, or recommendation concerns the investigation of a death that the local domestic violence fatality review team has reviewed.

P.L.45-2004

[H.1218. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-9-37-11, AS AMENDED BY P.L.62-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. ~~(a)~~ If a municipal works board orders any of the following improvements and assessments are imposed after June 30, 2001, to pay for the improvements or to repay bonds issued under this chapter after June 30, 2001, each owner of property assessed for that improvement may elect to pay the owner's assessment in installments with interest as described in section 8.5(a) of this chapter:

(1) Streets.

(2) Alleys.

(3) Other paved public places.

(4) Lighting.

(5) For municipalities that own and operate a water utility, water main extensions from the water utility.

(6) Sanitary sewers.

SECTION 2. IC 36-9-37-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) If a person defaults in the payment of a waived installment of principal or interest of an assessment, the municipal fiscal officer shall mail notice of the default to the person. The notice must meet the following conditions:

(1) Be mailed not more than sixty (60) days after the default.

(2) Show the amount of the default, plus interest on that amount for ~~six (6) months~~ **the number of months the person is in default** at one-half (1/2) the rate prescribed by IC 6-1.1-37-10.

(3) State that the amount of the default, plus interest, is due by the ~~following May 10 or November 10 after the notice is mailed.~~ **date determined as follows:**

(A) If the person selected monthly installments under IC 36-9-37-8.5(a)(1), within sixty (60) days after the date the notice is mailed.

(B) If the person selected annual installments under IC 36-9-37-8.5(a)(2), within six (6) months after the date the notice is mailed.

(b) A notice that is mailed to the person in whose name the property is assessed and addressed to the person within the municipality is sufficient notice. However, the fiscal officer shall also attempt to determine the name and address of the current owner of the property and send a similar notice to the current owner.

(c) Failure to send the notice required by this section does not preclude or otherwise affect the following:

(1) The sale of the property for delinquency as prescribed by IC 6-1.1-24.

(2) The foreclosure of the assessment lien by the bondholder.

(3) The preservation of the assessment lien under section 22.5 of this chapter.

SECTION 3. IC 36-9-37-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22. **Except as provided in section 22.5 of this chapter,** the following apply if at least

one (1) installment of an assessment is in default:

- (1) The total amount of the assessment that remains unpaid is considered to be in default.
- (2) The assessed property is subject to sale under sections 23 through 24 of this chapter to pay that amount.
- (3) The assessment is subject to the:**
 - (A) requirements and duties imposed;**
 - (B) rights and remedies provided; and**
 - (C) procedures available to the county treasurer;****for the collection of delinquent property taxes.**

SECTION 4. IC 36-9-37-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 22.5. (a) The municipal fiscal officer and the municipal works board may jointly establish procedures allowing a municipality to avoid a sale, on property that is not delinquent for property taxes, penalties, and other special assessments, that:**

- (1) is required under section 22 of this chapter; and**
- (2) would be conducted under IC 6-1.1-24;**

by preserving an assessment that is in default as a lien against the property on which the assessment was imposed. A lien created under this section applies to the total assessment principal, interest, and penalties owed by the property owner on the date on which the municipality determines that the assessment is in default.

(b) Except as provided in subsection (c), an assessment preserved as a lien under this section shall be paid by the person liable for the assessment when ownership of the property is transferred.

(c) The following apply to an assessment preserved as a lien under this section:

- (1) Additional penalties do not accrue to the lien after the date described in subsection (a).**
- (2) The procedures established under subsection (a) must specify when additional interest shall accrue to the lien after the date described in subsection (a).**
- (3) The lien must be recorded.**
- (4) The amount owed by the property owner must be paid by the person liable for the assessment before the final bond maturity date.**

(d) When the person liable pays an assessment preserved as a lien under this section, the proceeds of the collection are subject to the same requirements as the proceeds of a sale conducted under section 24 of this chapter.

SECTION 5. IC 36-9-37-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25. (a) To avoid a foreclosure action on a special assessment, a municipality may:

(1) defer collection of the assessment under section 22.5 of this chapter; or

(2) accept a conveyance in satisfaction of the assessment from the owner of the assessed property.

(b) If there are bondholders other than the municipality holding bonds on the improvement for which the assessment was made, the municipality may do any of the following:

(1) Join with the other bondholders in accepting a conveyance of an undivided interest in the property.

(2) Cause a conveyance of the property to be made to a bank or trust company in the municipality and held under a trust agreement by the bank or trust company for the use and benefit of the municipality and the other bondholders.

(c) A conveyance under this section may be accepted by the municipality only if the head of the municipal legal department makes a written recommendation to the city executive or town legislative body that the conveyance be accepted.

P.L.46-2004

[H.1245. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-46-1-4, AS AMENDED BY P.L.133-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: Sec. 4. (a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

- (1) places the dependent in a situation that endangers the dependent's life or health;
- (2) abandons or cruelly confines the dependent;
- (3) deprives the dependent of necessary support; or
- (4) deprives the dependent of education as required by law;

commits neglect of a dependent, a Class D felony.

(b) However, the offense is:

- (1) a Class C felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in bodily injury;
- (2) a Class B felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury; ~~and~~
- (3) **a Class A felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age; and**
- (4) a Class C felony if it is committed under subsection (a)(2) and consists of cruel or unusual confinement or abandonment.

(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of his religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent.

(d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under IC 35-46-1-9(b);

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony.

SECTION 2. IC 35-46-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **(a)** A person **at least** eighteen (18) years of age ~~or older~~ who knowingly or intentionally encourages, aids, induces, or causes a person ~~under less than~~ eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

(b) However, ~~the~~ **an offense described in subsection (a)** is a Class C felony if:

(1) the:

(A) person is at least twenty-one (21) years of age and knowingly or intentionally furnishes:

- (i) an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person knew or reasonably should have known that the person was less than eighteen (18) years of age; or**
- (ii) a controlled substance (as defined in IC 35-48-1-9) or a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law; and**

(B) consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause of the death of any person; or

(2) the person is at least eighteen (18) years of age and knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under any of the following:

- (1) (A) IC 35-48-4-1.**
- (2) (B) IC 35-48-4-2.**
- (3) (C) IC 35-48-4-3.**
- (4) (D) IC 35-48-4-4.**
- (5) (E) IC 35-48-4-4.5.**
- (6) (F) IC 35-48-4-4.6. or**
- (7) (G) IC 35-48-4-5.**

SECTION 3. [EFFECTIVE JULY 1, 2004] IC 35-46-1-4 and IC 35-46-1-8, both as amended by this act, apply only to offenses committed after June 30, 2004.

P.L.47-2004

[H.1253. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-9.1-1-4.5, AS AMENDED BY P.L.129-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. As used in this article, the term "special purpose bus" means any motor vehicle designed and constructed:

- (1) for the accommodation of more than ten (10) passengers;
 - (2) that:
 - (A) meets the federal school bus safety requirements under 49 U.S.C. 30125 except the:
 - (i) stop signal arm required under federal motor vehicle safety standard (FMVSS) no. 131; and
 - (ii) flashing lamps required under federal motor vehicle safety standard (FMVSS) no. 108;
 - (B) when owned by a school corporation and used to transport children, complies with the Federal Motor Carrier Safety Regulations as prescribed by the United States Department of Transportation Federal Motor Carrier Safety Administration as set forth in 49 CFR Chapter III Subchapter B; or
 - (C) when owned by a school corporation and used to transport children, is a motor coach type bus with a capacity of thirty (30) or more passengers and a gross vehicle weight rating greater than twenty-six thousand (26,000) pounds; and
 - (3) that is used by a school corporation for transportation purposes ~~not appropriate for school buses. under IC 20-9.1-5-2.6.~~
- SECTION 2. IC 20-9.1-5-2.6 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.6. (a) A special purpose bus:

(1) may **not** be used by a school corporation to provide regular transportation of school children ~~other than those provided for in subdivision (3): between their residence and the school; between one (1) school and another school but not between their residence and the school;~~

(2) may be used to transport school children and their supervisors, including coaches, managers, and sponsors to athletic, other extracurricular school activities, and field trips; and

(3) may be used by a school corporation to provide transportation **between their residence and the school** for persons enrolled in a special program for the habilitation or rehabilitation of developmentally disabled or physically disabled persons.

(b) The mileage limitation of section 2 of this chapter does not apply to special purpose buses.

(c) The operator of a special purpose bus must be at least twenty-one (21) years of age, must be authorized by the school corporation, and must meet the following requirements:

(1) If the bus has a capacity of less than sixteen (16) passengers, the operator must hold a valid operator's, chauffeur's, or public passenger chauffeur's license.

(2) If the bus has a capacity of more than fifteen (15) passengers, the operator must meet the requirements for a school bus driver set out in IC 20-9.1-3.

(d) A special purpose bus is not required to be constructed, equipped, or painted as specified for school buses under this article or by the rules of the state school bus committee.

(e) An owner or operator of a special purpose bus, other than one owned or operated by a school corporation or a private school, is subject to IC 8-2.1.

P.L.48-2004

[H.1254. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-13-2-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.1. "Act", for purposes of IC 9-24-6.5, has the meaning set forth in IC 9-24-6.5-1.**

SECTION 2. IC 9-13-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. "Administration", for purposes of IC 9-24-6.5, has the meaning set forth in IC 9-24-6.5-2.**

SECTION 3. IC 9-13-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. "Approved motorcycle driver education and training course" means:**

- (1) a course offered by a public or private secondary school, a **new motorcycle dealer**, or other driver education school offering motorcycle driver training as developed and approved by the superintendent of public instruction and the bureau; or
- (2) a course that is offered by a commercial driving school or new motorcycle dealer and that is approved by the bureau.

SECTION 4. IC 9-24-6-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11.5. (a) This section applies if the United States Department of Homeland Security, Transportation Security Administration adopts regulations concerning disqualifying offenses.**

(b) The bureau shall revoke the hazardous materials endorsement of a driver who:

- (1) receives a judgment or conviction for a disqualifying offense (as defined in the regulations described in subsection (a)) immediately upon receiving notice of the judgment or conviction; or

(2) is determined by the United States Department of Homeland Security, Transportation Security Administration to be a potential security threat;
and shall give notice to the driver that the endorsement has been revoked and of the procedure by which the driver may appeal the revocation.

(c) The revocation of the hazardous material endorsement of a driver revocation under subsection (b) is for the period set forth under the regulations described in subsection (a).

SECTION 5. IC 9-24-6-12, AS AMENDED BY P.L.123-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) A driver who:

(1) is:

(A) convicted of an offense described in section 8(1) through 8(4) or 8(6) of this chapter; or

(B) found to have violated section 8(7) of this chapter; and

(2) has been previously convicted in a separate incident of any offense described in section 8(1) through 8(4) or 8(6) of this chapter;

is disqualified for life from driving a commercial motor vehicle.

(b) A driver who applies for a hazardous materials endorsement and has been convicted of:

(1) a felony under Indiana law that results in serious bodily injury or death to another person; or

(2) a crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is disqualified for life from holding a hazardous materials endorsement.

(c) The hazardous materials endorsement of a driver who holds a hazardous materials endorsement and is convicted of a:

(1) felony under Indiana law that results in serious bodily injury or death to another person; or

(2) crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is revoked upon conviction, and the driver is disqualified for life from holding a hazardous materials endorsement.

(d) The hazardous materials endorsement of a driver may be

revoked and the driver may be disqualified from holding a hazardous materials endorsement if the revocation and disqualification are required under regulations adopted by the United States Department of Homeland Security, Transportation Security Administration.

SECTION 6. IC 9-24-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 6.5. Hazardous Material Endorsement Application and Renewal

Sec. 1. As used in this chapter, "act" refers to the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, Pub. L. 107-56, 115 Stat. 272 (2001).

Sec. 2. As used in this chapter, "administration" refers to the United States Department of Homeland Security, Transportation Security Administration.

Sec. 3. The bureau may adopt rules and policies necessary to fully implement the requirements of the act and the regulations adopted to implement the act.

Sec. 4. The bureau shall forward the information provided by an applicant for a hazardous material endorsement to the administration or another agency designated to receive the information if the bureau is required to forward the information under regulations adopted to implement the act.

Sec. 5. The bureau may:

- (1) determine the cost to the state of procedures required to comply with regulations adopted to implement the act; and
- (2) charge a fee to applicants that is sufficient to offset the cost determined under subdivision (1).

Sec. 6. (a) The hazardous materials endorsement of a driver who applies for renewal of the endorsement may remain valid after the date on which the endorsement would otherwise expire if both of the following conditions are met:

- (1) The application for renewal was received by the bureau at least ninety (90) days before the date on which the endorsement expires.
- (2) On the date on which the endorsement expires, the bureau has not yet received the results of a background check

conducted by the administration or another agency designated to conduct the background check.

(b) Except as provided in subsection (c), an extension under subsection (a) is valid for ninety (90) days after the date on which the endorsement would otherwise expire.

(c) Notwithstanding subsection (b), if the bureau receives information from the administration or another agency designated to conduct a background check that requires the bureau to revoke the hazardous materials endorsement of a driver, the bureau shall revoke the endorsement immediately upon receipt of the information.

(d) An extension under subsection (a) may be renewed until:

- (1) the bureau receives the results of a background check conducted by the administration or another agency designated to conduct the background check; or
- (2) further extensions are barred under regulations adopted to implement the act.

Sec. 7. An applicant whose application for a hazardous materials endorsement is denied or whose hazardous materials endorsement is revoked under IC 9-24-6-11.5 may appeal the denial or revocation under IC 4-21.5 or, if other procedures are adopted by the administration or another agency of the United States, under the other procedures.

SECTION 7. IC 9-24-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. A learner's permit authorizes the permit holder to operate a motor vehicle, except a motorcycle, upon a public highway under the following conditions:

- (1) While the holder is participating in practice driving in an approved driver education course and is accompanied by a certified driver education instructor in the front seat of an automobile equipped with dual controls.
- (2) If the learner's permit has been validated and the holder is less than eighteen (18) years of age, the holder may participate in practice driving if the seat beside the holder is occupied by a guardian, **stepparent**, or relative of the holder who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.
- (3) If the learner's permit has been validated and the holder is at least eighteen (18) years of age, the holder may participate in

practice driving if accompanied in the vehicle by an individual who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

(4) While:

(A) the holder is enrolled in an approved driver education course;

(B) the holder is participating in practice driving after having commenced an approved driver education course; and

(C) the seat beside the holder is occupied by a parent, **stepparent**, or guardian of the holder who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

SECTION 8. IC 9-27-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To establish or operate a commercial driver training school, the school must obtain a license from the bureau in the manner and form prescribed by the bureau.

(b) **Subject to subsection (c)**, the bureau shall adopt rules under IC 4-22-2 that state the requirements for obtaining a school license, including the following:

(1) Location of the school.

(2) Equipment required.

(3) Courses of instruction.

(4) Instructors.

(5) Previous records of the school and instructors.

(6) Financial statements.

(7) Schedule of fees and charges.

(8) Character and reputation of the operators and instructors.

(9) Insurance in the amount and with the provisions the bureau considers necessary to adequately protect the interests of the public.

(10) Other matters the bureau prescribes for the protection of the public.

(c) The rules adopted under subsection (b) must permit a licensed school to conduct classroom training in a county outside the county where the school is located to the students of:

(1) a school corporation (as defined in IC 36-1-2-17);

(2) a nonpublic secondary school that voluntarily becomes accredited under IC 20-1-1-6; or

(3) a nonpublic secondary school recognized under

IC 20-1-1-6.2;

if the governing body of the school corporation or the nonpublic secondary school approves the delivery of the training to its students.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-27-4-4, as amended by this act, the bureau of motor vehicles shall carry out the duties imposed upon it under IC 9-27-4-4, as amended by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-27-4-4, as amended by this act.

(2) December 31, 2004.

SECTION 10. An emergency is declared for this act.

P.L.49-2004

[H.1257. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-8-12-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) This section does not apply to an employee of the state subject to IC 4-15-10-7.

(b) This section applies to an employee of a political subdivision who:

(1) is a volunteer firefighter; and

(2) has notified the employee's employer in writing that the employee is a volunteer firefighter.

(c) The political subdivision employer may not discipline an employee:

(1) for being absent from employment by reason of

responding to a fire or emergency call that was received before the time that the employee was to report to employment; or

(2) for leaving the employee's duty station to respond to a fire or an emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the employee has reported to work.

(d) The political subdivision employer may require an employee who has been absent from employment as set forth in subsection (c)(1) or (c)(2) to present a written statement from the fire chief or other officer in charge of the volunteer fire department at the time of the absence indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence.

(e) An employee who is disciplined by the employer in violation of subsection (c) may bring a civil action against the employer in the county of employment. In the action, the employee may seek the following:

- (1) Payment of back wages.
- (2) Reinstatement to the employee's former position.
- (3) Fringe benefits wrongly denied or withdrawn.
- (4) Seniority rights wrongly denied or withdrawn.

An action brought under this subsection must be filed within one (1) year after the date of the disciplinary action.

P.L.50-2004

[H.1265. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-15-1.8-7, AS AMENDED BY P.L.224-2003, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: Sec. 7. (a) The department shall do the following:

- (1) Develop personnel policies, methods, procedures, and standards for all state agencies.
- (2) Formulate, establish, and administer position classification plans and salary and wage schedules, all subject to final approval by the governor.
- (3) Allocate positions in the state agencies to their proper classifications.
- (4) Approve employees for transfer, demotion, promotion, suspension, layoff, and dismissal.
- (5) Rate employees' service.
- (6) Arrange with state agency heads for employee training.
- (7) Investigate the need for positions in the state agencies.
- (8) Promulgate and enforce personnel rules.
- (9) Make and administer examinations for employment and for promotions.
- (10) Maintain personnel records and a roster of the personnel of all state agencies.
- (11) Render personnel services to the political subdivisions of ~~Indiana: the state.~~
- (12) Investigate the operation of personnel policies in all state agencies.
- (13) Assist state agencies in the improvement of their personnel procedures.
- (14) Conduct a vigorous program of recruitment of qualified and able persons for the state agencies.
- (15) Advise the governor and the general assembly of legislation needed to improve the personnel system of this state.
- (16) Furnish any information and counsel requested by the governor or the general assembly.
- (17) Establish and administer an employee training and career advancement program.
- (18) Administer the state personnel law, IC 4-15-2.
- (19) Institute an employee awards system designed to encourage all state employees to submit suggestions that will reduce the costs or improve the quality of state agencies.
- (20) Survey the administrative organization and procedures, including personnel procedures, of all state agencies, and submit

to the governor measures to secure greater efficiency and economy, to minimize the duplication of activities, and to effect better organization and procedures among state agencies.

(21) Establish, implement, and maintain the state aggregate prescription drug purchasing program established under IC 16-47-1, as approved by the budget agency.

(b) Salary and wage schedules established by the department under subsection (a) must provide for the establishment of overtime policies, which must include the following:

- (1) Definition of overtime.
- (2) Determination of employees or classes eligible for overtime pay.
- (3) Procedures for authorization.
- (4) Methods of computation.
- (5) Procedures for payment.
- (6) A provision that there shall be no mandatory adjustments to an employee's established work schedule in order to avoid the payment of overtime.

(c) The state personnel advisory board shall advise the director and cooperate in the improvement of all the personnel policies of the state.

(d) ~~By January 1, 1984,~~ The department shall establish programs of temporary appointment for employees of state agencies. A program established under this subsection must contain at least the following provisions:

- (1) A temporary appointment may not exceed one hundred eighty (180) working days in any twelve (12) month period.
- (2) The department may allow exceptions to the prohibition in subdivision (1) with the approval of the state budget agency.
- (3) A temporary appointment in an agency covered by IC 4-15-2 is governed by the procedures of that chapter.
- (4) A temporary appointment does not constitute creditable service for purposes of the public employees' retirement program under IC 5-10.2 and IC 5-10.3. However, an employee who served in an intermittent form of temporary employment after June 30, 1986, and before July 1, 2003, shall receive creditable service for the period of temporary employment.

SECTION 2. IC 16-18-2-92.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2004]: **Sec. 92.6. "Department"**, for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-1.

SECTION 3. IC 16-18-2-159.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 159.1. "Health benefit plan"**, for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-2.

SECTION 4. IC 16-18-2-294.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 294.5. "Program"**, for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-3.

SECTION 5. IC 16-47 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 47. AGGREGATE PURCHASING OF PRESCRIPTION DRUGS

Chapter 1. State Aggregate Prescription Drug Purchasing Program

Sec. 1. As used in this chapter, "department" refers to the state personnel department.

Sec. 2. As used in this chapter, "health benefit plan" refers to the following:

- (1) An accident and sickness insurance policy purchased or maintained under IC 5-10-8-7(a)(3).
- (2) A self-insurance program established under IC 5-10-8-7(b) to provide group health coverage.
- (3) A contract with a prepaid health care delivery plan that is entered into or renewed under IC 5-10-8-7(c).
- (4) A plan through which a state educational institution (as defined in IC 20-12-0.5-1) arranges for coverage of the cost of health care services (as defined in IC 27-13-1-18) provided to employees of the state educational institution.

Sec. 3. As used in this chapter, "program" refers to the aggregate prescription drug purchasing program established under this chapter.

Sec. 4. (a) The department, with the approval of the budget agency, shall establish, implement, and maintain an aggregate prescription drug purchasing program through which terms are negotiated related to the purchase of prescription drugs by:

(1) an entity described in section 5(a) or 5(b) of this chapter;
or

(2) an individual who is covered under a health benefit plan that includes a prescription drug benefit.

(b) The budget agency may contract with a pharmacy benefit manager or other person to conduct the negotiations of the program established under subsection (a).

(c) The terms and conditions of the program are subject to the approval of the budget agency.

Sec. 5. (a) The following shall participate in the program:

(1) The department, for a health benefit plan:

(A) described in section 2(1), 2(2), or 2(3) of this chapter;
and

(B) that provides coverage for prescription drugs.

(2) A state educational institution, for a health benefit plan:

(A) described in section 2(4) of this chapter; and

(B) that provides coverage for prescription drugs;

unless the budget agency determines that the state educational institution's participation in the program would not result in an overall financial benefit to the state educational institution.

(b) The following may participate in the program:

(1) A state agency other than the department that:

(A) purchases prescription drugs; or

(B) arranges for the payment of the cost of prescription drugs.

(2) A local unit (as defined in IC 5-10-8-1).

(3) The Indiana comprehensive health insurance association established under IC 27-8-10.

(c) The state Medicaid program may not participate in the program under this chapter.

Sec. 6. A request for proposal and the award of a contract under this chapter is subject to the approval of the budget agency.

Sec. 7. The program may not include the purchase of prescription drugs imported into the United States in violation of federal law.

Sec. 8. (a) Participation in the program by a pharmaceutical manufacturer is voluntary.

(b) The state may not:

(1) require prior authorization for a prescription drug in the

state Medicaid program under IC 12-15; or

(2) otherwise penalize a pharmaceutical manufacturer;
because the pharmaceutical manufacturer is not participating in the program.

Sec. 9. Any information, including prescription drug prices and discounts, provided to the state or the state's contractor under this chapter is confidential and is exempt from disclosure under IC 5-14-3.

Sec. 10. A drug store may negotiate prescription drug prices and discounts with a pharmaceutical manufacturer to participate in the program.

Chapter 2. Multi-State Prescription Drug Aggregate Purchasing Program

Sec. 1. The state, with the approval of the governor, may enter into agreements with other states to jointly purchase prescription drugs in aggregate or provide for reimbursement of the cost of prescription drugs purchased in aggregate to reduce the prescription drug costs for the state and for Indiana residents covered under this chapter.

Sec. 2. The state Medicaid program may not participate in a program entered into under this chapter.

Sec. 3. The program described in this chapter may not include the purchase of prescription drugs imported into the United States in violation of federal law.

Sec. 4. (a) Participation in the program described in this chapter by a pharmaceutical manufacturer is voluntary.

(b) The state may not participate in a program described in this chapter that:

(1) requires prior authorization of a prescription drug in the state Medicaid program under IC 12-15; or

(2) otherwise penalizes a pharmaceutical manufacturer;
because a pharmaceutical manufacturer does not participate in the program.

Sec. 5. Any information, including prescription drug prices and discounts, provided to the state or to the state's contractor under this chapter is confidential and is exempt from disclosure under IC 5-14-3.

SECTION 6. [EFFECTIVE JULY 1, 2004] (a) IC 16-47-1-5(a)(1), as added by this act, applies to a health benefit plan described in

IC 16-47-1-2(1), IC 16-47-1-2(2), and IC 16-47-1-2(3), all as added by this act, established, entered into, delivered, amended, or renewed after December 31, 2004.

(b) IC 16-47-1-5(a)(2), as added by this act, applies to a health benefit plan described in IC 16-47-1-2(4), as added by this act, on the date that the health benefit plan is established, entered into, delivered, amended, or renewed after December 31, 2004.

SECTION 7. [EFFECTIVE JULY 1, 2004] (a) Not later than November 1, 2004, the budget agency shall conduct a study and submit a written report to the budget committee that:

(1) sets forth the status of the participation of other midwestern states; and

(2) researches the feasibility, costs, and legal parameters of Indiana's participation;

in a regional or multi-state prescription drug aggregate purchasing program.

(b) This SECTION expires December 31, 2005.

P.L.51-2004

[H.1273. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning insurance and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 27-8-10-2.1, AS AMENDED BY P.L.178-2003, SECTION 63, AND P.L.193-2003, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 2.1. (a) There is established a nonprofit legal entity to be referred to as the Indiana comprehensive health insurance association, which must assure that health insurance is made available throughout the year to each eligible Indiana resident applying to the association for coverage. All carriers, health maintenance organizations, limited service health maintenance organizations, and

self-insurers providing health insurance or health care services in Indiana must be members of the association. The association shall operate under a plan of operation established and approved under subsection (c) and shall exercise its powers through a board of directors established under this section.

(b) The board of directors of the association consists of ~~seven (7)~~ *nine (9)* members whose principal residence is in Indiana selected as follows:

(1) ~~Three (3)~~ *Four (4)* members to be appointed by the commissioner from the members of the association, one (1) of which must be a representative of a health maintenance organization.

(2) Two (2) members to be appointed by the commissioner shall be consumers representing policyholders.

(3) Two (2) members shall be the state budget director or designee and the commissioner of the department of insurance or designee.

(4) One (1) member to be appointed by the commissioner must be a representative of health care providers.

The commissioner shall appoint the chairman of the board, and the board shall elect a secretary from its membership. The term of office of each appointed member is three (3) years, subject to eligibility for reappointment. Members of the board who are not state employees may be reimbursed from the association's funds for expenses incurred in attending meetings. The board shall meet at least semiannually, with the first meeting to be held not later than May 15 of each year.

(c) The association shall submit to the commissioner a plan of operation for the association and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation becomes effective upon approval in writing by the commissioner consistent with the date on which the coverage under this chapter must be made available. The commissioner shall, after notice and hearing, approve the plan of operation if the plan is determined to be suitable to assure the fair, reasonable, and equitable administration of the association and provides for the sharing of association losses on an equitable, proportionate basis among the member carriers, health maintenance organizations, limited service health maintenance organizations, and

self-insurers. If the association fails to submit a suitable plan of operation within one hundred eighty (180) days after the appointment of the board of directors, or at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall adopt rules under IC 4-22-2 necessary or advisable to implement this section. These rules are effective until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. The plan of operation must:

- (1) establish procedures for the handling and accounting of assets and money of the association;
- (2) establish the amount and method of reimbursing members of the board;
- (3) establish regular times and places for meetings of the board of directors;
- (4) establish procedures for records to be kept of all financial transactions and for the annual fiscal reporting to the commissioner;
- (5) establish procedures whereby selections for the board of directors will be made and submitted to the commissioner for approval;
- (6) contain additional provisions necessary or proper for the execution of the powers and duties of the association; and
- (7) establish procedures for the periodic advertising of the general availability of the health insurance coverages from the association.

(d) The plan of operation may provide that any of the powers and duties of the association be delegated to a person who will perform functions similar to those of this association. A delegation under this section takes effect only with the approval of both the board of directors and the commissioner. The commissioner may not approve a delegation unless the protections afforded to the insured are substantially equivalent to or greater than those provided under this chapter.

(e) The association has the general powers and authority enumerated by this subsection in accordance with the plan of operation approved by the commissioner under subsection (c). The association has the general powers and authority granted under the laws of Indiana to carriers licensed to transact the kinds of health care services or health

insurance described in section 1 of this chapter and also has the specific authority to do the following:

(1) Enter into contracts as are necessary or proper to carry out this chapter, subject to the approval of the commissioner.

(2) **Subject to section 2.6 of this chapter**, sue or be sued, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against participating carriers.

(3) Take legal action necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association.

(4) Establish a medical review committee to determine the reasonably appropriate level and extent of health care services in each instance.

(5) Establish appropriate rates, scales of rates, rate classifications and rating adjustments, such rates not to be unreasonable in relation to the coverage provided and the reasonable operational expenses of the association.

(6) Pool risks among members.

(7) Issue policies of insurance on an indemnity or provision of service basis providing the coverage required by this chapter.

(8) Administer separate pools, separate accounts, or other plans or arrangements considered appropriate for separate members or groups of members.

(9) Operate and administer any combination of plans, pools, or other mechanisms considered appropriate to best accomplish the fair and equitable operation of the association.

(10) Appoint from among members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the association, policy and other contract design, and any other function within the authority of the association.

(11) Hire an independent consultant.

(12) Develop a method of advising applicants of the availability of other coverages outside the association. *and may promulgate a list of health conditions the existence of which would deem an applicant eligible without demonstrating a rejection of coverage by one (+) carrier.*

(13) Provide for the use of managed care plans for insureds, including the use of:

(A) health maintenance organizations; and

(B) preferred provider plans.

(14) Solicit bids directly from providers for coverage under this chapter.

(15) Subject to section 3 of this chapter, negotiate reimbursement rates and enter into contracts with individual health care providers and health care provider groups.

(f) The board shall obtain an actuarial recommendation for development of an equitable methodology for determination of member assessments.

~~(g)~~ Rates for coverages issued by the association may not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable expenses of providing the coverage. Separate scales of premium rates based on age apply for individual risks. Premium rates must take into consideration the extra morbidity and administration expenses, if any, for risks insured in the association. The rates for a given classification may *not* be:

(1) *not more than one hundred fifty percent (150%) of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year for an insured whose family income is less than three hundred fifty-one percent (351%) of the federal income poverty level for the same size family; and*

(2) *an amount equal to:*

(A) *not less than one hundred fifty-one percent (151%); and*

(B) *not more than two hundred percent (200%);*

of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year, for an insured whose family income is more than three hundred fifty percent (350%) of the federal income poverty level for the same size family.

In determining the average rate of the five (5) largest carriers, the rates charged by the carriers shall be actuarially adjusted to determine the rate that would have been charged for benefits **substantially** identical to those issued by the association. **Additionally, subject to the limitations set forth in subdivisions (1) and (2), the association may,**

on October 1 of each year, adjust the rates as described in section 2.2 of this chapter. All rates adopted by the association must be submitted to the commissioner for approval.

(g) ~~(f)~~ Following the close of the association's fiscal year, the association shall determine the net premiums, the expenses of administration, and the incurred losses for the year. **Twenty-five percent (25%) of any net loss shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums as reported to the department of insurance,** excluding premiums for Medicaid contracts with the state of Indiana, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association. ~~or any other equitable basis as may be provided in the plan of operation. For self-insurers, health maintenance organizations, and limited service health maintenance organizations that are members of the association, the proportionate share of losses must be determined through the application of an equitable formula based upon claims paid, excluding claims for Medicaid contracts with the state of Indiana, or the value of services provided.~~ **Seventy-five percent (75%) of any net loss shall be paid by the state.** In sharing losses, the association may abate or defer in any part the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for interim assessments against members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the association's next fiscal year is completed. ~~Except as provided in sections 12 and 13 of this chapter,~~ Net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums. Assessments must be determined by the board members specified in subsection (b)(1), subject to final approval by the commissioner.

(h) ~~(f)~~ The association shall conduct periodic audits to assure the general accuracy of the financial data submitted to the association, and the association shall have an annual audit of its operations by an independent certified public accountant.

(i) ~~(f)~~ The association is subject to examination by the department of insurance under IC 27-1-3.1. The board of directors shall submit, not

later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

(j) ~~(k)~~ All policy forms issued by the association must conform in substance to prototype forms developed by the association, must in all other respects conform to the requirements of this chapter, and must be filed with and approved by the commissioner before their use.

(k) ~~(l)~~ The association may not issue an association policy to any individual who, on the effective date of the coverage applied for, does not meet the eligibility requirements of section 5.1 of this chapter.

~~(l) The association shall pay an agent's insurance producer's referral fee of twenty-five dollars (\$25) to each insurance agent producer who refers an applicant to the association if that applicant is accepted.~~

~~(m)~~ (l) The association and the premium collected by the association shall be exempt from the premium tax, the adjusted gross income tax, or any combination of these upon revenues or income that may be imposed by the state.

~~(n)~~ (m) Members who, after July 1, 1983, during any calendar year, have paid one (1) or more assessments levied under this chapter may either:

(1) take a credit against premium taxes; adjusted gross income taxes; or any combination of these; or similar taxes upon revenues or income of member insurers that may be imposed by the state, up to the amount of the taxes due for each calendar year in which the assessments were paid and for succeeding years until the aggregate of those assessments have been offset by either credits against those taxes or refunds from the association; or

(2) any member insurer may include in the rates for premiums charged for insurance policies to which this chapter applies amounts sufficient to recoup a sum equal to the amounts paid to the association by the member less any amounts returned to the member insurer by the association, and the rates shall not be deemed excessive by virtue of including an amount reasonably calculated to recoup assessments paid by the member.

~~(o)~~ (n) The association shall provide for the option of monthly collection of premiums.

(o) The association shall periodically certify to the budget agency the amount necessary to pay seventy-five percent (75%) of

any net loss as specified in subsection (g).

SECTION 2. IC 27-8-10-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.2. (a) Subject to subsections (b) and (c), a premium rate calculated under section 2.1 of this chapter may, on October 1 of each year, be adjusted by an amount equal to:**

- (1) the percentage change in medical cost experienced by the association; minus
- (2) the percentage change in the Indiana medical care component of the Consumer Price Index for all Urban Consumers, as published by the United States Bureau of Labor Statistics;

during the preceding calendar year.

(b) A positive or negative adjustment in the rate calculated under subsection (a) may not be greater than ten percent (10%).

(c) A premium rate adjustment under this section may not result in a premium rate that is more than the maximum premium rate allowed under section 2.1(f) of this chapter.

(d) This section expires June 30, 2006.

SECTION 3. IC 27-8-10-2.3, AS ADDED BY P.L.167-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.3. (a) A member shall, not later than October 31 of each year, certify an independently audited report to the:**

- (1) association;
- (2) legislative council; and
- (3) department of insurance;

of the amount of tax credits taken against assessments by the member under section ~~2.1(n)(1)~~ **2.1 (as in effect December 31, 2004) or 2.4** of this chapter during the previous calendar year.

(b) A member shall, not later than October 31 of each year, certify an independently audited report to the association of the amount of assessments paid by the member against which a tax credit has not been taken under section 2.1 (as in effect December 31, 2004) or 2.4 of this chapter as of the date of the report.

SECTION 4. IC 27-8-10-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: **Sec. 2.4. (a) Beginning January 1, 2005, a member that, before January 1, 2005, has:**

(1) paid an assessment; and

(2) not taken a credit against taxes;

under section 2.1 of this chapter (as in effect December 31, 2004) is not entitled to claim or carry forward the unused tax credit except as provided in this section.

(b) A member described in subsection (a) may, for each taxable year beginning after December 31, 2006, take a credit of not more than ten percent (10%) of the amount of the assessments paid before January 1, 2005, against which a tax credit has not been taken before January 1, 2005. A credit under this subsection may be taken against premium taxes, adjusted gross income taxes, or any combination of these, or similar taxes upon revenues or income of the member that may be imposed by the state, up to the amount of the taxes due for each taxable year.

(c) If the maximum amount of a tax credit determined under subsection (b) for a taxable year exceeds a member's liability for the taxes described in subsection (b), the member may carry the unused portion of the tax credit forward to subsequent taxable years. Tax credits carried forward under this subsection are not subject to the ten percent (10%) limit set forth in subsection (b).

(d) The total amount of credits taken by a member under this section in all taxable years may not exceed the total amount of assessments paid by the member before January 1, 2005, minus the total amount of tax credits taken by the member under section 2.1 of this chapter (as in effect December 31, 2004) before January 1, 2005.

SECTION 5. IC 27-8-10-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.5. (a) A member shall comply with the association's plan of operation.

(b) A member assessment under section 2.1 of this chapter is due not more than thirty (30) days after the member receives written notice of the assessment. A member that pays an assessment after the due date shall pay interest on the assessment at the rate of six percent (6%) per annum.

SECTION 6. IC 27-8-10-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2.6. (a) If a:

(1) member is aggrieved by an act of the association; or

(2) health care provider is aggrieved by an act of the association with respect to reimbursement to the provider under an association policy;
 the member or health care provider shall, not more than ninety (90) days after the act occurs, appeal to the board of directors for review of the act.

(b) If:

- (1) within thirty (30) days after an appeal is filed under subsection (a), the board of directors has not acted on the appeal; or
- (2) a member or health care provider is aggrieved by a final action or decision of the board of directors;

the member or health care provider may appeal to the commissioner.

(c) An appeal to the commissioner under subsection (b) must be filed less than thirty (30) days after the:

- (1) expiration of the thirty (30) day period specified in subsection (b)(1); or
- (2) action or decision specified in subsection (b)(2).

(d) The commissioner shall, not more than forty-five (45) days after an appeal is filed under subsection (c), take a final action or issue an order regarding the appeal.

(e) A final action or order of the commissioner on an appeal filed under this section is subject to judicial review.

(f) If a member or health care provider sues the association, the court shall not award to the member or health care provider:

- (1) attorney's fees or costs; or
- (2) punitive damages.

SECTION 7. IC 27-8-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2004 (RETROACTIVE)]: Sec. 3. (a) An association policy issued under this chapter may pay ~~usual~~ and customary charges or use other reimbursement systems that are consistent with managed care plans, including fixed fee schedules and capitated reimbursement, for medically necessary eligible health care services rendered or furnished for the diagnosis or treatment of illness or injury that exceed the deductible and coinsurance amounts applicable under section 4 of this chapter: **an amount for medically necessary eligible expenses related to the diagnosis or treatment of illness or injury that exceed the deductible and coinsurance**

amounts applicable under section 4 of this chapter. Payment under an association policy must be based on one (1) or a combination of the following reimbursement methods, as determined by the board of directors:

(1) The association's usual and customary fee schedule in effect on January 1, 2004. If payment is based on the usual and customary fee schedule in effect on January 1, 2004, the rates of reimbursement under the fee schedule must be adjusted annually by a percentage equal to the percentage change in the Indiana medical care component of the Consumer Price Index for all Urban Consumers, as published by the United States Bureau of Labor Statistics during the preceding calendar year.

(2) A health care provider network arrangement. If payment is based on a health care provider network arrangement, reimbursement under an association policy must be made according to:

(A) a network fee schedule for network health care providers and nonnetwork health care providers; and

(B) any additional coinsurance that applies to the insured under the association policy if the insured obtains health care services from a nonnetwork health care provider.

(b) Eligible expenses are the charges for the following health care services and articles to the extent furnished by a health care provider in an emergency situation or furnished or prescribed by a physician:

(1) Hospital services, including charges for the institution's most common semiprivate room, and for private room only when medically necessary, but limited to a total of one hundred eighty (180) days in a year.

(2) Professional services for the diagnosis or treatment of injuries, illnesses, or conditions, other than mental or dental, that are rendered by a physician or, at the physician's direction, by the physician's staff of registered or licensed nurses, and allied health professionals.

(3) The first twenty (20) professional visits for the diagnosis or treatment of one (1) or more mental conditions rendered during the year by one (1) or more physicians or, at their direction, by their staff of registered or licensed nurses, and allied health

professionals.

(4) Drugs and contraceptive devices requiring a physician's prescription.

(5) Services of a skilled nursing facility for not more than one hundred eighty (180) days in a year.

(6) Services of a home health agency up to two hundred seventy (270) days of service a year.

(7) Use of radium or other radioactive materials.

(8) Oxygen.

(9) Anesthetics.

(10) Prostheses, other than dental.

(11) Rental of durable medical equipment which has no personal use in the absence of the condition for which prescribed.

(12) Diagnostic X-rays and laboratory tests.

(13) Oral surgery for:

(A) excision of partially or completely erupted impacted teeth;

(B) excision of a tooth root without the extraction of the entire tooth; or

(C) the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth.

(14) Services of a physical therapist and services of a speech therapist.

(15) Professional ambulance services to the nearest health care facility qualified to treat the illness or injury.

(16) Other medical supplies required by a physician's orders.

An association policy may also include comparable benefits for those who rely upon spiritual means through prayer alone for healing upon such conditions, limitations, and requirements as may be determined by the board of directors.

~~(b)~~ (c) A managed care organization that issues an association policy may not refuse to enter into an agreement with a hospital solely because the hospital has not obtained accreditation from an accreditation organization that:

(1) establishes standards for the organization and operation of hospitals;

(2) requires the hospital to undergo a survey process for a fee paid by the hospital; and

(3) was organized and formed in 1951.

~~(c)~~ (d) This section does not prohibit a managed care organization from using performance indicators or quality standards that:

- (1) are developed by private organizations; and
- (2) do not rely upon a survey process for a fee charged to the hospital to evaluate performance.

~~(d)~~ (e) For purposes of this section, if benefits are provided in the form of services rather than cash payments, their value shall be determined on the basis of their monetary equivalency.

~~(e)~~ (f) The following are not eligible expenses in any association policy within the scope of this chapter:

- (1) Services for which a charge is not made in the absence of insurance or for which there is no legal obligation on the part of the patient to pay.
- (2) Services and charges made for benefits provided under the laws of the United States, including Medicare and Medicaid, military service connected disabilities, medical services provided for members of the armed forces and their dependents or for employees of the armed forces of the United States, medical services financed in the future on behalf of all citizens by the United States.
- (3) Benefits which would duplicate the provision of services or payment of charges for any care for injury or disease either:
 - (A) arising out of and in the course of an employment subject to a worker's compensation or similar law; or
 - (B) for which benefits are payable without regard to fault under a coverage statutorily required to be contained in any motor vehicle or other liability insurance policy or equivalent self-insurance.

However, this subdivision does not authorize exclusion of charges that exceed the benefits payable under the applicable worker's compensation or no-fault coverage.

- (4) Care which is primarily for a custodial or domiciliary purpose.
- (5) Cosmetic surgery unless provided as a result of an injury or medically necessary surgical procedure.
- (6) Any charge for services or articles the provision of which is not within the scope of the license or certificate of the institution or individual rendering the services.

~~(f)~~ (g) The coverage and benefit requirements of this section for

association policies may not be altered by any other inconsistent state law without specific reference to this chapter indicating a legislative intent to add or delete from the coverage requirements of this chapter.

~~(g)~~ **(h)** This chapter does not prohibit the association from issuing additional types of health insurance policies with different types of benefits that, in the opinion of the board of directors, may be of benefit to the citizens of Indiana.

~~(h)~~ **(i)** This chapter does not prohibit the association or its administrator from implementing uniform procedures to review the medical necessity and cost effectiveness of proposed treatment, confinement, tests, or other medical procedures. Those procedures may take the form of preadmission review for nonemergency hospitalization, case management review to verify that covered individuals are aware of treatment alternatives, or other forms of utilization review. Any cost containment techniques of this type must be adopted by the board of directors and approved by the commissioner.

SECTION 8. IC 27-8-10-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 3.2. Except as provided in section 3.6 of this chapter, a health care provider shall not bill an insured for any amount that exceeds:**

- (1) the payment made by the association under the association policy for eligible expenses incurred by the insured; and**
- (2) any copayment, deductible, or coinsurance amounts applicable under the association policy.**

SECTION 9. IC 27-8-10-14, AS AMENDED BY SEA 106-2004, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Notwithstanding section 2.1 of this chapter: ~~for the period beginning July 1, 2003; and ending March 15, 2004:~~

- ~~(1) fifty percent (50%) of any net loss determined under section 2.1~~ **(h) section 2.1** of this chapter shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association; and

(2) fifty percent (50%) of any net loss determined under ~~section 2-1(h)~~ **section 2.1** of this chapter shall be assessed by the association to all members in proportion to their respective shares of the number of individuals in Indiana who are covered under health insurance provided by a member, excluding individuals who are covered under Medicaid contracts with the state during the calendar year coinciding with or ending during the fiscal year of the association.

(b) This section expires ~~March 15, 2004~~. **January 1, 2005.**

SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 27-8-10-12; IC 27-8-10-13.

SECTION 11. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: (a) **Notwithstanding IC 27-8-10-2.1, as amended by this act:**

(1) **fifty percent (50%) of any net loss determined under IC 27-8-10-2.1, as in effect on January 1, 2004, shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association; and**

(2) **fifty percent (50%) of any net loss determined under IC 27-8-10-2.1, as in effect on January 1, 2004, shall be assessed by the association to all members in proportion to their respective shares of the number of individuals in Indiana who are covered under health insurance provided by a member, excluding individuals who are covered under Medicaid contracts with the state during the calendar year coinciding with or ending during the fiscal year of the association.**

(b) **This section expires May 1, 2004.**

SECTION 12. [EFFECTIVE JANUARY 1, 2005] **The amounts certified to the budget agency under IC 27-8-10-2.1(o), as amended by this act, beginning January 1, 2005, and ending June 30, 2005, are appropriated to the budget agency for its use in making the payments required by IC 27-8-10-2.1(g), as amended by this act, beginning January 1, 2005, and ending June 30, 2005.**

SECTION 13. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 27-8-10-1 apply throughout this SECTION.

(b) An insured who was, after June 30, 2003, and before the effective date of IC 27-8-10-3.2, as added by this act, billed by a health care provider for an amount that exceeded:

(1) the payment made by the association under the insured's association policy for eligible expenses incurred by the insured; and

(2) any copayment, deductible, or coinsurance amounts applicable under the association policy;

and paid all or a portion of the amount may, not later than December 31, 2004, submit to the association proof of the insured's payment. The association shall reimburse the insured the amount for which proof of payment is submitted by the insured.

(c) All amounts reimbursed by the association under this SECTION shall be assessed by the association to all members of the association according to the member assessment methodology in effect on the date of the assessment under:

(1) IC 27-8-10; or

(2) SECTION 11 of this act.

(d) This SECTION expires December 31, 2006.

SECTION 14. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 27-8-10-1 apply throughout this SECTION.

(b) IC 27-8-10-3.2, as added by this act, applies to any billing that occurs on or after the effective date of IC 27-8-10-3.2, as added by this act, regardless of when the health care services to which the bill applies were provided.

SECTION 15. An emergency is declared for this act.

P.L.52-2004

[H.1277. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 13-11-2-25.8, AS ADDED BY HEA 1798-2003, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25.8. **(a)** For purposes of IC 13-18:

(1) "Class I wetland" means an isolated wetland described by one

(1) or both of the following:

(A) At least fifty percent (50%) of the wetland has been disturbed or affected by human activity or development by one

(1) or more of the following:

(i) Removal or replacement of the natural vegetation.

(ii) ~~Disturbance~~ or Modification of the natural hydrology.

(B) The wetland supports **only** minimal wildlife **or aquatic** habitat or hydrologic function because the wetland ~~(i)~~ does not provide critical habitat for threatened or endangered species listed in accordance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) **and the wetland is characterized by at least one (1) of the following:**

~~(ii)~~ **(i) The wetland** is typified by low species diversity.

~~(iii)~~ **(ii) The wetland** contains greater than fifty percent (50%) areal coverage of non-native invasive species **of vegetation.**

~~(iv)~~ **(iii) The wetland** does not support significant **wildlife or aquatic** habitat. ~~or wildlife uses; or~~

~~(v)~~ **(iv) The wetland** does not possess significant hydrologic function;

(2) "Class II wetland" means:

(A) an isolated wetland that is not a Class I or Class III wetland; or

(B) a type of wetland listed in subdivision (3)(B) that would meet the definition of Class I wetland if the wetland were not

a rare or ecologically important type; and

(3) "Class III wetland" means an isolated wetland:

(A) that is located in a setting undisturbed or minimally disturbed by human activity or development **and that supports more than minimal wildlife or aquatic habitat or hydrologic function;** or

(B) unless classified as a Class II wetland under subdivision (2)(B), that is of one (1) of the following rare and ecologically important types:

- (i) Acid bog.
- (ii) Acid seep.
- (iii) Circumneutral bog.
- (iv) Circumneutral seep.
- (v) Cypress swamp.
- (vi) Dune and swale.
- (vii) Fen.
- (viii) Forested fen.
- (ix) Forested swamp.
- (x) Marl beach.
- (xi) Muck flat.
- (xii) Panne.
- (xiii) Sand flat.
- (xiv) Sedge meadow.
- (xv) Shrub swamp.
- (xvi) Sinkhole pond.
- (xvii) Sinkhole swamp.
- (xviii) Wet floodplain forest.
- (xix) Wet prairie.
- (xx) Wet sand prairie.

(b) For purposes of this section, a wetland or setting is not considered disturbed or affected as a result of an action taken after January 1, 2004, for which a permit is required under IC 13-18-22 but has not been obtained.

SECTION 2. IC 13-11-2-61 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 61. "Dredged material", for purposes of this chapter and IC 13-18-22, means material that is dredged or excavated from an isolated wetland.**

SECTION 3. IC 13-11-2-74.5, AS ADDED BY HEA 1798-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 74.5. (a) "Exempt isolated wetland", for purposes of IC 13-18 **and environmental management laws**, means an isolated wetland that:

(1) is a voluntarily created wetland unless:

(A) the wetland is approved by the department for compensatory mitigation purposes in accordance with a permit issued under Section 404 of the Clean Water Act **or IC 13-18-22;**

(B) the wetland is reclassified as a state regulated wetland under IC 13-18-22-6(c); or

(C) the owner of the wetland declares, by a written instrument:

(i) recorded in the office of the recorder of the county or counties in which the wetland is located; and

(ii) filed with the department;

that the wetland is to be considered in all respects to be a state regulated wetland;

(2) exists as an incidental feature in or on:

(A) a residential lawn;

(B) a lawn or landscaped area of a commercial or governmental complex;

(C) agricultural land;

(D) a roadside ditch;

(E) an irrigation ditch; or

(F) a manmade drainage control structure;

(3) is a fringe wetland associated with a private pond;

(4) is, or is associated with, a manmade body of surface water of any size created by:

(A) excavating;

(B) diking; or

(C) excavating and diking;

dry land to collect and retain water for or incidental to agricultural, commercial, industrial, or aesthetic purposes;

(5) subject to subsection ~~(b)~~, **(c)**, is a Class I wetland with ~~a delineation an area, as delineated~~, of one-half (1/2) acre or less;

(6) subject to subsection ~~(c)~~, **(d)**, is a Class II wetland with ~~a delineation an area, as delineated~~, of one-fourth (1/4) acre or

less;

(7) is located on land:

(A) subject to regulation under the United States Department of Agriculture wetland conservation rules, also known as Swampbuster, because of voluntary enrollment in a federal farm program; and

(B) used for agricultural or associated purposes allowed under the rules referred to in clause (A); or

(8) is constructed for reduction or control of pollution.

(b) For purposes of subsection (a)(2), an isolated wetland exists as an incidental feature:

(1) if:

(A) the owner or operator of the property or facility described in subsection (a)(2) does not intend the isolated wetland to be a wetland;

(B) the isolated wetland is not essential to the function or use of the property or facility; and

(C) the isolated wetland arises spontaneously as a result of damp soil conditions incidental to the function or use of the property or facility; and

(2) if the isolated wetland satisfies any other factors or criteria established in rules that are:

(A) adopted by the water pollution control board; and

(B) not inconsistent with the factors and criteria described in subdivision (1).

(c) The total acreage of Class I wetlands on a tract to which the exemption described in subsection (a)(5) may apply is limited to the larger of:

(1) the acreage of the largest individual isolated wetland on the tract that qualifies for the exemption described in subsection (a)(5); and

(2) fifty percent (50%) of the cumulative acreage of all individual isolated wetlands on the tract that would qualify for the exemption described in subsection (a)(5) but for the limitation of this subsection.

(d) The total acreage of Class II wetlands on a tract to which the exemption described in subsection (a)(6) may apply is limited to the larger of:

- (1) the acreage of the largest individual isolated wetland on the tract that qualifies for the exemption described in subsection (a)(6); and
- (2) thirty-three and one-third percent (33 1/3%) of the cumulative acreage of all individual isolated wetlands on the tract that would qualify for the exemption described in subsection (a)(6) but for the limitation of this subsection.

(e) An isolated wetland described in subsection (a)(5) or (a)(6) does not include an isolated wetland on a tract that contains more than one (1) of the same class of wetland until the owner of the tract notifies the department that the owner has selected the isolated wetland to be an exempt isolated wetland under subsection (a)(5) or (a)(6) consistent with the applicable limitations described in subsections (c) and (d).

SECTION 4. IC 13-11-2-265, AS AMENDED BY HEA 1798-2003, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 265. (a) "Waters", for purposes of water pollution control laws and environmental management laws, means:

- (1) the accumulations of water, surface and underground, natural and artificial, public and private; or
- (2) a part of the accumulations of water;

that are wholly or partially within, flow through, or border upon Indiana.

(b) The term "waters" does not include:

- (1) an exempt isolated wetland;
- (2) a private pond; or
- (3) an off-stream pond, reservoir, wetland, or other facility built for reduction or control of pollution or cooling of water before discharge.

(c) The term includes all waters of the United States, as defined in Section 502(7) of the federal Clean Water Act (33 U.S.C. 1362(7)), that are located in Indiana.

SECTION 5. IC 13-18-22-2, AS ADDED BY HEA 1798-2003, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The board may adopt rules under IC 4-22-2 and IC 13-14 not later than February 1, ~~2004~~, **2005**, to implement the part of the definition of Class I wetland under IC 13-11-2-25.8(1)(B).

(b) Before the adoption of rules by the board under subsection (a), the department shall determine the class of a wetland in a manner consistent with the definitions of Class I, II, and III wetlands in IC 13-11-2-25.8.

(c) The classification of an isolated wetland that is based on the level of disturbance of the wetland by human activity or development may be improved to a higher numeric class if an action is taken to restore the isolated wetland, in full or in part, to the conditions that existed on the isolated wetland before the disturbance occurred.

SECTION 6. IC 13-18-22-3, AS ADDED BY HEA 1798-2003, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An individual permit is required to authorize a wetland activity in a Class III wetland.

(b) Except as provided in section 4(a) of this chapter, an individual permit is required to authorize a wetland activity in a Class II wetland.

(c) The board shall adopt rules under IC 4-22-2 and IC 13-14 not later than June 1, ~~2004~~, **2005**, to govern the issuance of individual permits by the department under subsections (a) and (b).

SECTION 7. IC 13-18-22-4, AS ADDED BY HEA 1798-2003, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) ~~A general permit is authorized for~~ Wetland activities with minimal impact in **Class I wetlands and** Class II wetlands, including the activities analogous to **those allowed under** the nationwide permit program (as published in 67 Fed. Reg. 2077-2089 (2002)), **shall be authorized by a general permit rule.**

(b) ~~A general permit is authorized for~~ Wetland activities in Class I wetlands **shall be authorized by a general permit rule.**

(c) The board shall adopt rules under IC 4-22-2 and IC 13-14 not later than February 1, ~~2004~~, **2005**, to establish and implement the general permits ~~authorized described~~ in subsections (a) and (b).

SECTION 8. IC 13-18-22-5, AS ADDED BY P.L.282-2003, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The rules adopted under section 3 of this chapter:

(1) must require that the applicant demonstrate, as a prerequisite to the issuance of the permit, that wetland activity:

(A) is:

(i) without reasonable alternative; and

(ii) reasonably necessary or appropriate;

to achieve a legitimate use proposed by the applicant on the property on which the wetland is located; and

(B) for a Class III wetland, is without practical alternative and will be accompanied by taking steps that are practicable and appropriate to minimize potential adverse impacts of the discharge on the aquatic ecosystem of the wetland;

(2) except as provided in subsection (c), must establish that compensatory mitigation will be provided as set forth in section 6 of this chapter to reasonably offset the loss of wetlands allowed by the permits; and

(3) may prescribe additional conditions that are reasonable and necessary to carry out the purposes of this chapter.

(b) The rules adopted under section 4 of this chapter must require, as a prerequisite to the applicability of the general permit by rule to a specific wetland activity, that the person proposing the discharge submit to the department a notice of intent to be covered by the general permit by rule that:

(1) identifies the wetlands to be affected by the wetland activity; and

(2) except as provided in subsection (c), provides a compensatory mitigation plan as set forth in section 6 of this chapter to reasonably offset the loss of wetlands allowed by the general permit.

(c) Under subsections (a) and (b), the rules adopted under sections 3 and 4 of this chapter may provide for exceptions to compensatory mitigation in specific, limited circumstances.

(d) For purposes of subsection (a)(1)(A):

(1) a resolution of the executive of the county or municipality in which the wetland is located; or

(2) a permit or other approval from a local government entity having authority over the proposed use of the property on which the wetland is located;

that includes a specific finding that the wetland activity is **reasonably necessary or appropriate to achieve the intended use of the property as described in subsection (a)(1)(A)** is considered conclusive evidence of that fact.

SECTION 9. IC 13-18-22-7, AS ADDED BY HEA 1798-2003, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The department shall:

- (1) administer the permit programs established by this chapter; and
 - (2) review and issue decisions on applications for permits to undertake wetland activities in state regulated wetlands in accordance with the rules issued by the board under this chapter.
- (b) Before the adoption of rules by the board under this chapter, the department shall:
- (1) issue individual permits under this chapter consistent with the general purpose of this chapter; and
 - (2) for wetland activities in Class I wetlands, issue permits under this subsection:
 - (A) that are simple, streamlined, and uniform;
 - (B) that do not require development of site specific provisions; and
 - (C) promptly upon submission by the applicant to the department of a notice of registration for a permit.
- (c) Not later than June 1, ~~2003~~, **2004**, the department shall make available to the public:
- (1) a form for use in applying for a permit under subsection (b)(1); and
 - (2) a form for use in submitting a notice of registration for a permit to undertake a wetland activity in a Class I wetland under subsection (b)(2).

SECTION 10. IC 13-18-22-8, AS ADDED BY HEA 1798-2003, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) ~~The Subject to subsection (f),~~ the department shall make a decision to issue or deny an individual permit under section 3 or 7(b)(1) of this chapter not later than one hundred twenty (120) days after receipt of the **completed** application. If the department fails to make a decision on a permit application by ~~that deadline; the deadline under this subsection or subsection (f),~~ a permit is considered to have been issued by the department in accordance with the application.

(b) ~~Except as provided in subsection (d),~~ A general permit under section 4 of this chapter ~~is considered to have been issued becomes~~

effective with respect to an applicant a proposed wetland activity that is within the scope of the general permit on the thirty-first day after the department receives a notice of intent of from the person proposing the wetland activity that the wetland activity be authorized under the general permit. if the department has not previously authorized the wetland activity.

(c) Except as provided in subsection (d), a permit to undertake a wetland activity in a Class I wetland under section 7(b)(2) of this chapter is considered to have been issued to an applicant on the thirty-first day after the department receives a notice of registration submitted under section 7(b)(2) of this chapter if the department has not previously authorized the wetland activity.

(d) The department may deny a registration for a permit **for cause** under subsection ~~(b)~~ or (c) before the period specified in subsection ~~(b)~~ or (c) expires.

(e) The department must support a denial under subsection (a) or (d) by a written statement of reasons.

(f) The department may notify the applicant that the completed application referred to in subsection (a) is deficient. If the department fails to give notice to the applicant under this subsection not later than fifteen (15) days after the department's receipt of the completed application, the application is considered not to have been deficient. After receipt of a notice under this subsection, the applicant may submit an amended application that corrects the deficiency. The department shall make a decision to issue or deny an individual permit under the amended application within a period that ends a number of days after the date the department receives the amended application equal to the remainder of:

(1) one hundred twenty (120) days; minus

(2) the number of days the department held the initial application before giving a notice of deficiency under this subsection.

SECTION 11. IC 13-18-22-10, AS ADDED BY HEA 1798-2003, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **(a) Except as provided in subsection (b),** the department has no authority over the:

(1) filling;

- (2) draining; or
- (3) elimination by other means;

before January 1, ~~2003~~, **2004**, of a wetland that would have been an isolated wetland.

(b) The department has authority over wetland activities in an isolated wetland, including an exempt isolated wetland, that are subject to the provisions of:

- (1) a National Pollutant Discharge Elimination System (NPDES) permit issued by the department under 33 U.S.C. 1342;**
- (2) an agreed order under IC 13-30-3-3, consent order, or consent decree executed by the department and the regulated party;**
- (3) an order issued under IC 13-30-3-4; or**
- (4) a judgment of a court enforcing or upholding an enforcement order or decree described in subdivision (2) or (3);**

that became effective before January 1, 2004.

SECTION 12. IC 13-11-2-166.5 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 13. HEA 1798-2003, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 41. (a) The environmental quality service council shall do the following:

- (1) Monitor the implementation of SECTIONS 21 through 25, 27 through 35, 38, and 39 of this act.
- (2) Review the role of the department of environmental management with respect to action on requests under Section 401 of the Clean Water Act (33 U.S.C. 1341) for certifications concerning projects subject to permit requirements under Section 404 of the Clean Water Act (33 U.S.C. 1344), and recommend whether statutory direction is appropriate or necessary in defining that role.
- (3) Complete its consideration of the options for statutory definition of "private pond" as used in the definition of "waters" in IC 13-11-2-265, as amended by this act, and:
 - (A) recommend an option; and
 - (B) include with the recommendation a statement of rationale

for the recommendation.

(4) Evaluate the tensions between existing programs for wetlands protection and for local drainage and recommend principles and policies for ameliorating those tensions, taking into consideration the rationale and objectives for both programs.

(5) Submit its final report on the matters described in subdivisions (1) through (4) before November 1, ~~2003~~, **2004**, to:

(A) the governor; and

(B) the executive director of the legislative services agency.

(b) The environmental quality service council shall:

(1) conduct an ongoing evaluation of the implementation of the permit program for state regulated wetlands under IC 13-18-22, as added by this act;

(2) recommend any adjustments to the program referred to in subdivision (1) that are considered advisable to improve the operation and effectiveness of the program, consistent with the purpose of providing an efficient permitting process and enhancing the attainment of an overall goal of no net loss of state regulated wetlands; and

(3) submit its final report on the matters described in subdivisions (1) and (2) before November 1, ~~2005~~, **2006**; to:

(A) the governor; and

(B) the executive director of the legislative services agency.

(c) This SECTION expires January 1, ~~2006~~, **2007**.

SECTION 14. An emergency is declared for this act.

P.L.53-2004

[H.1293. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1.5-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 3.5. Water Bill Adjustments for Undetected Leaks

Sec. 1. As used in this section, "unusually large bill" means a residential water bill that reflects monthly water usage, in whatever units measured, that is at least two (2) times the customer's average monthly usage at the premises.

Sec. 2. As used in this section, "utility" refers to a water utility owned or operated by a municipality.

Sec. 3. Notwithstanding IC 8-1-2-103(a), a utility may adjust an unusually large bill if the excess usage reflected in the bill is caused by physical damage to any facility or equipment supplying water to the premises and the damage:

- (1) is not visible or detectable on the customer's premises except upon excavation or some other disturbance of the property; and
- (2) is not the result of an act of the customer, or of any agent or contractor hired by the customer.

Sec. 4. A utility that elects to adjust unusually large bills must do so in accordance with policies adopted by the utility. The utility's policies must specify the procedures by which a customer may request an adjustment and prove the damage described in section 3 of this chapter.

SECTION 2. IC 13-26-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. Revenue bonds may:

- (1) bear interest, at a rate or rates not exceeding the maximum determined by the board, that is payable ~~annually~~ or at shorter

~~intervals;~~ **accretes as determined by the board;**

- (2) mature at a time or times to be determined by ordinance; and
- (3) be made redeemable before maturity at the option of the district, to be exercised by the board, at not more than the par value and a premium not exceeding five percent (5%) under terms and conditions that are fixed by the ordinance authorizing the issuance of the bonds.

P.L.54-2004

[H.1301. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-18-15-1, AS AMENDED BY P.L.216-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2004]: Sec. 1. (a) A person who is the registered owner or lessee of a:

- (1) passenger motor vehicle;
- (2) motorcycle;
- (3) recreational vehicle; or
- (4) vehicle registered as a truck with a declared gross weight of not more than:
 - (A) eleven thousand (11,000) pounds;
 - (B) nine thousand (9,000) pounds; or
 - (C) seven thousand (7,000) pounds;

registered with the bureau or who makes an application for an original registration or renewal registration of a vehicle may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular license plate.

(b) A person who:

- (1) is the registered owner or lessee of a vehicle described in subsection (a); and

- (2) is eligible to receive a license plate for the vehicle under:
- (A) IC 9-18-17 (prisoner of war license plates);
 - (B) IC 9-18-18 (disabled veteran license plates);
 - (C) IC 9-18-19 (purple heart license plates);
 - (D) IC 9-18-20 (Indiana national guard license plates);
 - (E) IC 9-18-21 (Indiana guard reserve license plates);
 - (F) IC 9-18-22 (license plates for persons with disabilities);
 - (G) IC 9-18-23 (amateur radio operator license plates);
 - (H) IC 9-18-24 (civic event license plates);
 - (I) IC 9-18-25 (special group recognition license plates);
 - (J) IC 9-18-29 (environmental license plates);
 - (K) IC 9-18-30 (kids first trust license plates);
 - (L) IC 9-18-31 (education license plates);
 - (M) IC 9-18-32.2 (drug free Indiana trust license plates);
 - (N) IC 9-18-33 (Indiana FFA trust license plates);
 - (O) IC 9-18-34 (Indiana firefighter license plates);
 - (P) IC 9-18-35 (Indiana food bank trust license plates);
 - (Q) IC 9-18-36 (Indiana girl scouts trust license plates);
 - (R) IC 9-18-37 (Indiana boy scouts trust license plates);
 - (S) IC 9-18-38 (Indiana retired armed forces member license plates);
 - (T) IC 9-18-39 (Indiana antique car museum trust license plates);
 - (U) IC 9-18-40 (D.A.R.E. Indiana trust license plates);
 - (V) IC 9-18-41 (Indiana arts trust license plates);
 - (W) IC 9-18-42 (Indiana health trust license plates);
 - (X) IC 9-18-43 (Indiana mental health trust license plates);
 - (Y) IC 9-18-44 (Indiana Native American Trust license plates);
 - (Z) IC 9-18-45.8 (Pearl Harbor survivor license plates); **or**
 - (AA) IC 9-18-46.2 (Indiana state educational institution trust license plates);
 - (BB) IC 9-18-47 (Lewis and Clark bicentennial license plates); or**
 - (CC) IC 9-18-48 (Riley Children's Foundation license plates);**

may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular

special recognition license plate.

SECTION 2. IC 9-18-25-17.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 17.5. (a) This section applies to a special group if at least five thousand (5,000) of the special group's license plates are issued under this chapter during one (1) calendar year beginning after December 31, 2004.**

(b) Notwithstanding section 3 of this chapter, the representatives of the special group may petition the bureau to design a distinctive license plate that identifies a vehicle as being registered to a person who is a member of the special group.

(c) The design of the special group license plate must include a basic design for the special group recognition license plate with consecutive numerals or letters, or both, to properly identify the vehicle.

(d) A special group license plate must be treated with special reflective material designed to increase the visibility and legibility of the special group license plate.

(e) Beginning with the calendar year following the year in which the representatives petition the bureau under subsection (b), the bureau shall issue the special group's license plate to a person who is eligible to register a vehicle under this title who:

(1) completes an application for the license plate; and

(2) pays the following fees:

(A) The appropriate fee under IC 9-29-5-38(a).

(B) An annual fee of twenty-five dollars (\$25).

(f) The annual fee referred to in subsection (e)(2)(B) shall be collected by the bureau and deposited in a trust fund for the special group established under subsection (g). However, the bureau shall retain two dollars (\$2) for each license plate issued until the cost of designing and issuing the special group license plate is recovered by the bureau.

(g) The treasurer of state shall establish a trust fund for each special group for which the bureau collects fees under this section.

(h) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund is continuously appropriated for the purposes of this section.

Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(i) The commissioner shall administer the fund. Expenses of administering the fund shall be paid from money in the fund.

(j) On June 30 of each year, the commissioner shall distribute the money from the fund to the special group for which the bureau has collected fees under this section.

(k) The bureau may not disclose information that identifies the persons to whom special group license plates have been issued under this section to the special group.

SECTION 3. IC 9-18-47 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 47. Lewis and Clark Bicentennial License Plates

Sec. 1. The bureau shall design and issue a Lewis and Clark bicentennial license plate. The Lewis and Clark bicentennial license plate shall be designed and issued as a special group recognition license plate under IC 9-18-25.

Sec. 2. After January 1, 2005, a person who is eligible to register a vehicle under this title is eligible to receive a Lewis and Clark bicentennial license plate under this chapter upon doing the following:

(1) Completing an application for a Lewis and Clark bicentennial license plate.

(2) Paying the fees under section 3 of this chapter.

Sec. 3. (a) The fees for a Lewis and Clark bicentennial license plate are as follows:

(1) The appropriate fee under IC 9-29-5-38(a).

(2) An annual fee of twenty-five dollars (\$25).

(b) The annual fee described in subsection (a)(2) shall be collected by the bureau.

(c) The annual fee described in subsection (a)(2) shall be deposited in the Lewis and Clark bicentennial fund established by section 4 of this chapter.

Sec. 4. (a) The Lewis and Clark bicentennial fund is established.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund. Money in the

fund is continuously appropriated for the purposes of this section.

(c) The commissioner shall administer the fund. Expenses of administering the fund shall be paid from money in the fund.

(d) The commissioner shall monthly distribute the money from the fund to the Lewis and Clark bicentennial commission established by IC 14-20-15.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 4. IC 9-18-48 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 48. Riley Children's Foundation License Plates

Sec. 1. The bureau shall design and issue a Riley Children's Foundation license plate. The Riley Children's Foundation license plate shall be designed and issued as a special group recognition license plate under IC 9-18-25.

Sec. 2. After January 1, 2005, a person who is eligible to register a vehicle under this title is eligible to receive a Riley Children's Foundation license plate under this chapter upon doing the following:

(1) Completing an application for a Riley Children's Foundation license plate.

(2) Paying the fees under section 3 of this chapter.

Sec. 3. (a) The fees for a Riley Children's Foundation license plate are as follows:

(1) The appropriate fee under IC 9-29-5-38(a).

(2) An annual fee of twenty-five dollars (\$25).

(b) The annual fee described in subsection (a)(2) shall be collected by the bureau.

(c) The annual fee described in subsection (a)(2) shall be deposited in the Riley Children's Foundation trust fund established by section 4 of this chapter.

Sec. 4. (a) The Riley Children's Foundation trust fund is established.

(b) The treasurer of state shall invest the money in the Riley Children's Foundation trust fund not currently needed to meet the obligations of the Riley Children's Foundation trust fund in the same manner as other public trust funds are invested. Interest that accrues from these investments shall be deposited in the Riley

Children's Foundation trust fund. Money in the fund is continuously appropriated for the purposes of this section.

(c) The commissioner shall administer the Riley Children's Foundation trust fund. Expenses of administering the Riley Children's Foundation trust fund shall be paid from money in the Riley Children's Foundation trust fund.

(d) On June 30 of each year, the commissioner shall distribute the money from the Riley Children's Foundation trust fund to the Riley Children's Foundation.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 5. IC 14-20-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 15. Lewis and Clark Bicentennial Commission

Sec. 1. As used in this chapter, "bicentennial" refers to the bicentennial of the Lewis and Clark expedition.

Sec. 2. As used in this chapter, "commission" refers to the Lewis and Clark bicentennial commission established by section 3 of this chapter.

Sec. 3. The Lewis and Clark bicentennial commission is established.

Sec. 4. The commission consists of the following members:

(1) Six (6) members of the house of representatives, to be appointed by the speaker of the house of representatives. Not more than three (3) members appointed under this subdivision may be members of the same political party.

(2) Six (6) members of the senate, to be appointed by the president pro tempore of the senate. Not more than three (3) members appointed under this subdivision may be members of the same political party.

(3) The governor or the governor's designee.

(4) The director of the department of natural resources or the director's designee.

(5) One (1) employee of the department of commerce with expertise in the tourism or film industry, to be designated by the lieutenant governor.

(6) One (1) member of the Indiana historical society, to be appointed by the governor.

(7) Three (3) Indiana citizens, to be appointed by the governor. Not more than two (2) members appointed under this subdivision may be members of the same political party.

Sec. 5. The governor or the governor's designee shall act as the chair of the commission.

Sec. 6. The commission may do the following:

(1) Educate Indiana residents and the nation about Indiana's important role in the Lewis and Clark expedition.

(2) Assist local governments and organizations with planning, preparation, and grant applications for bicentennial events and projects.

(3) Coordinate state, local, and nonprofit organizations' bicentennial activities occurring in Indiana.

(4) Act as a point of contact for national bicentennial organizations wishing to distribute information to state and local groups about grant opportunities, meetings, and national events.

(5) Plan and implement appropriate events to commemorate the bicentennial.

(6) Seek federal grants and philanthropic support for bicentennial activities.

(7) Perform other duties necessary to highlight Indiana's role in the Lewis and Clark expedition.

(8) Recommend the establishment of a nonprofit corporation under section 7 of this chapter.

(9) Transfer funds received under IC 9-18-47 and other property to a nonprofit corporation established under section 7 of this chapter.

Sec. 7. (a) The commission may recommend the establishment of a nonprofit corporation under IC 23-17 that is:

(1) tax exempt; and

(2) historically oriented;

to assist in the duties and purposes of the commission.

(b) If a corporation is established under subsection (a), the corporation shall:

(1) operate exclusively for the benefit of;

(2) perform the functions of; and

(3) carry out the purposes of;

the commission.

(c) A corporation established under this section shall submit to the commission quarterly reports of the corporation's activities during the period. The reports must include the following:

(1) A record of the following:

(A) All money or other property received by the corporation as a donation, gift, devise, or bequest.

(B) The conditions attached to the donation, gift, devise, or bequest, if any.

(2) A record of all expenditures by the corporation during the period and the purposes of each expenditure.

(3) A statement of activities the corporation anticipates undertaking during the following period.

(d) The corporation established under this section is subject to audit by the state board of accounts.

Sec. 8. The department of natural resources shall staff the commission.

Sec. 9. The expenses of the commission shall be paid from the money transferred to the commission from the Lewis and Clark bicentennial fund established by IC 9-18-47.

Sec. 10. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council.

Sec. 11. (a) Each member of the commission who is a member

of the general assembly is a nonvoting member.

(b) The affirmative votes of a majority of the voting members appointed to the commission are required for the commission to take action on any measure, including final reports.

(c) A member of the commission serves at the pleasure of the person who appointed the member.

Sec. 12. The commission may establish a citizen advisory board to assist the commission in implementing this chapter. If the commission establishes a citizen advisory board under this section, the following apply:

(1) The board consists of the following members:

(A) Not more than seven (7) citizens appointed by the speaker of the house of representatives.

(B) Not more than seven (7) citizens appointed by the president pro tempore of the senate.

(C) Not more than seven (7) citizens appointed by the governor.

(2) The board has the duties determined by the commission.

Sec. 13. (a) Money acquired by the commission is subject to Indiana law concerning the deposit and safekeeping of public money.

(b) The money of the commission and the accounts of each officer, employee, or other person entrusted by law with the raising, disposition, or expenditure of the money or part of the money is subject to the following:

(1) Examination by the state board of accounts.

(2) The same penalties and the same provision for publicity that are provided by law for state money and state officers.

SECTION 6. [EFFECTIVE UPON PASSAGE] P.L.7-2001 IS REPEALED.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) The Lewis and Clark bicentennial commission established by this act is the successor in interest to all property, rights, contracts, liabilities, obligations, and duties of the Lewis and Clark bicentennial commission established by P.L.7-2001.

(b) A member of Lewis and Clark bicentennial commission established by P.L.7-2001 becomes a member of the Lewis and Clark bicentennial commission established by this act without reappointment by the appointing authority. However, the member

continues to serve on the commission at the pleasure of the appointing authority.

SECTION 8. An emergency is declared for this act.

P.L.55-2004

[H.1304. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-8-16-14, AS AMENDED BY P.L.156-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. **(a)** The emergency telephone system fees shall be used only to pay for:

- (1) the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;
- (2) the rates associated with the service suppliers' enhanced emergency telephone system network services;
- (3) the personnel expenses of the emergency telephone system; and
- (4) the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee.

The legislative body of the unit may appropriate money in the fund only for such an expenditure.

(b) This subsection applies to a county that:

- (1) imposes a fee under section 5 of this chapter; and**
- (2) contains a municipality that operates a PSAP (as defined in IC 36-8-16.5-13).**

Not later than January 31 of each year, the county fiscal body shall submit to each municipality described in subdivision (2) a report of all expenditures described in subsection (a) paid during the

immediately preceding calendar year.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) In addition to the duties imposed under IC 8-1-2.5-9, the regulatory flexibility committee established by IC 8-1-2.6-4 shall issue a report and recommendations in an electronic format under IC 5-14-6 to the legislative council before November 1, 2004, concerning:

(1) 911 fees addressed in House Bill 1304, as introduced during the second regular session of the 113th general assembly; and

(2) the relationship between state wireless and local wireless systems.

(b) This SECTION expires January 1, 2005.

SECTION 3. An emergency is declared for this act.

P.L.56-2004

[H.1306. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.2-5-36 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 36. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2004, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member) who retired or was disabled before January 1, 2004, shall be increased by two percent (2%).**

(b) The monthly amount of the increase described in subsection (a) payable to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member) may not be less than five dollars (\$5).

(c) The increases specified in this section:

(1) are based on the date of the member's latest retirement or

disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

SECTION 2. IC 5-10.2-5-37 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 37. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2004, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:**

(1) after July 1, 1996, and before July 2, 2002, shall be increased by one percent (1%);

(2) after July 1, 1978, and before July 2, 1996, shall be increased by two percent (2%); and

(3) before July 2, 1978, shall be increased by three percent (3%).

(b) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

P.L.57-2004

[H.1308. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-10.2-2-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 3.7. "Committee" refers to the committee that develops the strategic and continuous school improvement and achievement plan under IC 20-10.2-3.**

SECTION 2. IC 20-10.2-2-3.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 3.8. "Cultural competency" means a system of congruent behaviors, attitudes, and policies that enables teachers to work effectively in cross-cultural situations. The term includes the use of knowledge concerning individuals and groups to develop specific standards, policies, practices, and attitudes to be used in appropriate cultural settings to increase students' educational performance.**

SECTION 3. IC 20-10.2-2-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 9.5. "Professional standards board" refers to the board established by IC 20-1-1.4.**

SECTION 4. IC 20-10.2-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 8. Cultural Competency in Educational Environments

Sec. 1. (a) The professional standards board, in consultation with the department, shall develop guidelines for use by accredited teacher training institutions and departments in preparing individuals to teach in various environments.

(b) The guidelines developed under subsection (a) must include courses and methods that assist individuals in developing cultural competency.

Sec. 2. The department, in consultation with the professional standards board, shall develop and make available to school corporations and nonpublic schools materials that assist teachers, administrators, and staff in a school in developing cultural competency for use in providing professional and staff development programs.

Sec. 3. (a) In developing a school's strategic and continuous school improvement and achievement plan under IC 20-10.2-3, the school's committee shall consider methods to improve the cultural competency of the school's teachers, administrators, staff, parents, and students.

(b) The committee shall:

- (1) identify the racial, ethnic, language-minority, cultural, exceptional learning, and socioeconomic groups that are**

included in the school's student population;

(2) incorporate culturally appropriate strategies for increasing educational opportunities and educational performance for each group in the school's plan; and

(3) recommend areas in which additional professional development is necessary to increase cultural competency in the school's educational environment.

(c) The committee shall update annually the information identified under subsection (b)(1).

P.L.58-2004

[H.1330. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 31-37-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. A child alleged to be a delinquent child because of an act under IC 31-37-2-2 may be held in a juvenile detention facility for:

(1) not more than twenty-four (24) hours **before; and**

(2) **not more than twenty-four (24) hours immediately after; the initial court appearance,** not including Saturdays, Sundays, and nonjudicial days.

P.L.59-2004

[H.1341. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 27-1-12.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) No annuity contract shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions, which in the opinion of the insurance commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) Upon:

(A) cessation of payment of considerations under an annuity contract; or

(B) **the written request of the contract holder;**

the company ~~will~~ **shall** grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in sections 4, 5, 6, 7, and 9 of this chapter.

(2) If an annuity contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company ~~will~~ **shall** pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in sections 4, 5, 7, and 9 of this chapter. The company ~~shall~~ **may** reserve the right to defer the payment of such cash surrender benefit for a period of **not more than** six (6) months after demand therefor with surrender of the contract **but only after:**

(A) **submitting to the commissioner a written request that addresses the:**

(i) **necessity of the deferral; and**

(ii) **equitability of the deferral for all the company's contract holders; and**

(B) **receiving the commissioner's written approval to defer.**

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the annuity contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

(b) Notwithstanding the requirements of this chapter, any annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars (\$20.00) monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

SECTION 2. IC 27-1-12.5-3, AS AMENDED BY P.L.130-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The minimum values as specified in sections 4, 5, 6, 7, and 9 of this chapter of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(b) With respect to any annuity contract, ~~providing for flexible considerations~~, the minimum nonforfeiture amounts at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at ~~a an annual~~ rate of interest of ~~three percent (3%) per annum of percentages determined under subsections (d) and (e) of the net considerations (as hereinafter defined) as set forth in subsection (c)~~ paid prior to such time, decreased by the sum of **the following**:

(1) Any prior withdrawals from or partial surrenders of the **annuity contract accumulated at a an annual rate of interest of three percent (3%) per annum; and determined under subsections (d) and (e).**

(2) The amount of any indebtedness to the company on the **annuity contract, including interest due and accrued.**
and increased by any existing additional amounts credited by the company to the contract.

(3) **An annual contract charge of fifty dollars (\$50), accumulated at the annual rate of interest determined under subsections (d) and (e).**

(c) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount ~~not less than zero and shall be equal to the corresponding eighty-seven and one-half percent (87.5%) of the gross considerations credited to the annuity contract during that contract year. less than an annual contract charge of thirty dollars (\$30) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year.~~ The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87.5%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%):

(e) ~~With respect to any annuity contract providing for fixed scheduled considerations; minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:~~

(1) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years:

(2) The annual contract charge shall be the lesser of (i) thirty dollars (\$30) or (ii) ten percent (10%) of the gross annual consideration.

(d) With respect to any annuity contract providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars (\$75).

(e) Notwithstanding any other provision of this section, the minimum nonforfeiture amount for any contract issued on or after July 1, 2002, and before July 1, 2004, shall be based on a rate of interest of one and one-half percent (1.5%) per annum.

(d) Except as provided in subsection (e), the interest rate used in determining minimum nonforfeiture amounts is an annual rate of interest determined under either of the following methods:

(1) The five-year constant maturity treasury rate, rounded to the nearest five-hundredths of one percent (0.05%), as reported by the Federal Reserve as of a date specified in the annuity contract. Reduce this amount by one hundred twenty-five (125) basis points.

(2) An average of the five-year constant maturity treasury rate as reported by the Federal Reserve, rounded to the nearest five-hundredths of one percent (0.05%), over a specified period as set forth in the annuity contract. Reduce this amount by one hundred twenty-five (125) basis points.

The date under subdivision (1) or the average period used under subdivision (2) may not be longer than fifteen (15) months before the annuity contract issue date or the redetermination date as determined under subsection (f).

(e) If the rate of interest determined under subsection (d) is:

(1) less than one percent (1%), the interest rate used in determining minimum nonforfeiture amounts is one percent (1%); or

(2) greater than three percent (3%), the interest rate used in determining minimum nonforfeiture amounts is three percent (3%).

(f) The interest rate determined under subsections (d) and (e) applies for an initial period and may be redetermined for subsequent periods. The redetermination date, basis, and period, if any, must be specified in the annuity contract. The basis is:

(1) the date; or

(2) an average calculated over a specified period;

that produces the value of the five-year constant maturity treasury rate reported by the Federal Reserve to be used at each redetermination date.

(g) During the period or term that an annuity contract provides substantive participation in an equity index benefit, the contract may increase the basis point reduction described in subsection (d) by not more than an additional one hundred (100) basis points to reflect the value of the equity index benefit. The present value at the annuity contract issue date, and at each redetermination date after the annuity contract issue date, of the additional reduction may not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. If the demonstration is not acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(h) The commissioner may adopt rules under IC 4-22-2 to provide for further adjustments to the calculation of minimum nonforfeiture amounts for:

(1) annuity contracts that provide participation in an equity index benefit; and

(2) other annuity contracts for which the commissioner determines adjustments are justified.

SECTION 3. IC 27-1-12.5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 4. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 27-1-12.5-3, as amended by this act, and SECTION 5 of this act, after June 30, 2004, and before July 1, 2006, a company (as defined in IC 27-1-2-3) may elect to apply one (1) of the following to an annuity contract (as defined in IC 27-1-12.5-1) issued after June 30, 2004, and before July 1, 2006, on a form by form basis:

(1) IC 27-1-12.5-3, as amended by this act.

(2) IC 27-1-12.5-3, as in effect before amendment by this act.

(b) This SECTION expires July 1, 2006.

SECTION 5. [EFFECTIVE JULY 1, 2004] IC 27-1-12.5-2 and IC 27-1-12.5-3, both as amended by this act, apply to an annuity contract (as defined in IC 27-1-12.5-1) issued after June 30, 2004.

P.L.60-2004

[H.1344. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning utilities and transportation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1-19.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 19.5. Telephone 211 Dialing Code Services for Accessing Human Services Information

Sec. 1. As used in this chapter, "211" means the abbreviated dialing code designated by the Federal Communications Commission for telephone service providing access to human services information and referrals.

Sec. 2. As used in this chapter, "211 service area" means a geographic area in Indiana that is designated by the commission as an area within which a recognized 211 service provider is authorized to provide 211 services.

Sec. 3. As used in this chapter, "211 services" means information and referral services provided through the use of 211 and intended to promote and provide access to human services.

Sec. 4. As used in this chapter, "account" refers to the 211 services account established by section 11 of this chapter.

Sec. 5. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 6. As used in this chapter, "human services" means services

provided by government or nonprofit organizations to ensure the health and well-being of Indiana citizens. The term includes services designed to provide relief or assistance after a natural or nonnatural disaster.

Sec. 7. As used in this chapter, "person" means an individual, a firm, a partnership, a corporation, or a limited liability company.

Sec. 8. As used in this chapter, "recognized 211 service provider" means an organization recognized by the commission as an appropriate administrator and authorized user of the 211 dialing code in a 211 service area.

Sec. 9. (a) It is the policy of the state to encourage the orderly and efficient use of 211 to:

- (1) provide access to human services; and
- (2) collect needed information about human services and the delivery of human services in Indiana.

(b) A state agency or department that provides human services may not establish a public telephone line or hotline to provide information or referrals unless the agency or department first:

- (1) consults with the recognized 211 service provider in the area to be served by the telephone line or hotline about using 211 to provide access to the information or referrals; and
- (2) notifies the commission of the consultation described in subdivision (1).

(c) A person may not disseminate information to the public about the availability of 211 or 211 services in an area of Indiana except in accordance with:

- (1) a rule adopted by the commission under IC 4-22-2; or
- (2) an order issued by the commission in a specific proceeding.

Sec. 10. A recognized 211 service provider and its employees, directors, officers, and agents are not liable to any person in a civil action for injuries or loss to persons or property as a result of an act or omission of the recognized 211 service provider, or its employees, directors, officers, or agents, in connection with:

- (1) developing, adopting, implementing, maintaining, or operating a 211 system;
- (2) making 211 available for use by the public; or
- (3) providing 211 services;

except for injuries or loss resulting from the willful or wanton misconduct of the 211 service provider or its employees, directors,

officers, or agents.

Sec. 11. (a) The 211 services account is established in the state general fund to make 211 services available throughout Indiana. The account shall be administered by the commission.

(b) The account consists of the following:

(1) Money appropriated to the account by the general assembly.

(2) Funds received from the federal government for the support of 211 services in Indiana.

(3) Investment earnings, including interest, on money in the account.

(4) Money from any other source, including gifts and grants.

(c) Money in the account is continuously appropriated for the purposes of this section.

(d) The commission shall annually prepare a plan for the expenditure of the money in the account. The plan must be reviewed by the state budget committee before the commission may make expenditures from the fund.

(e) Money in the account may be spent for the following purposes:

(1) The creation of a structure for a statewide 211 resources data base that:

(A) meets the Alliance for Information Referral Systems standards for information and referral systems data bases; and

(B) is integrated with a local resources data base maintained by a recognized 211 service provider.

Permissible expenditures under this subdivision include expenditures for planning, training, accreditation, and system evaluation.

(2) The development and implementation of a statewide 211 resources data base described in subdivision (1). Permissible expenditures under this subdivision include expenditures for planning, training, accreditation, and system evaluation.

(3) Collecting, organizing, and maintaining information from state agencies, departments, and programs that provide human services, for access by a recognized 211 service provider.

(4) Providing grants to a recognized 211 service provider for

any of the following purposes:

(A) The design, development, and implementation of 211 services in a recognized 211 service provider's 211 service area. Funds provided under this subdivision may be used for planning, public awareness, training, accreditation, and evaluation.

(B) The provision of 211 services on an ongoing basis after the design, development, and implementation of 211 services in a recognized 211 service provider's 211 service area.

(C) The provision of 211 services on a twenty-four (24) hour per day, seven (7) day per week basis.

(f) The expenses of administering the account shall be paid from money in the account.

(g) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(h) Money that is in the account under subsection (b)(2) through (b)(4) at the end of state a fiscal year does not revert to the state general fund.

Sec. 12. (a) The commission shall, after June 30 and before November 1 of each year, report to the general assembly on the following:

(1) The total amount of money deposited in the account during the most recent state fiscal year.

(2) The amount of funds, if any, received from the federal government during the most recent state fiscal year for the support of 211 services in Indiana. The information provided under this subdivision must include the amount of any matching funds, broken down by source, contributed by any source to secure the federal funds.

(3) The amount of money, if any, disbursed from the account for the following:

(A) The creation of a structure for a statewide 211 resources data base described in section 11(c)(1) of this chapter.

(B) The development and implementation of a statewide 211 resources data base described in section 11(c)(1) of this chapter.

(C) Collecting, organizing, and maintaining information from state agencies, departments, and programs that provide human services, for access by a recognized 211 service provider.

The information provided under this subdivision must identify any recognized 211 service provider or other organization that received funds for the purposes set forth in this subdivision.

(4) The amount of money, if any, disbursed from the account as grants to a recognized 211 service provider for any of the purposes described in section 11(c)(4) of this chapter. The information provided under this subdivision must identify the recognized 211 service provider that received the grant and the amount and purpose of the grant received.

(5) The expenses incurred by the commission in complying with this chapter during the most recent state fiscal year.

(6) The projected budget required by the commission to comply with this chapter during the current state fiscal year.

(b) The report required under this section must be in an electronic format under IC 5-14-6.

Sec. 13. The commission may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. IC 34-30-2-24.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24.2. IC 8-1-19.5-10 (Concerning a recognized 211 service provider and its employees, directors, officers, and agents for injuries or loss to persons or property as a result of an act or omission in connection with developing and providing 211 services).

SECTION 3. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 8-1-19.5-12, as added by this act, the first report required under IC 8-1-19.5-12, as added by this act, shall be submitted to the general assembly not later than November 1, 2005.

(b) This SECTION expires January 1, 2006.

P.L.61-2004
[H.1350. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-62 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 62. (a) "Commission", for purposes of IC 16-19-6, refers to the commission for special institutions.

(b) "Commission", for purposes of IC 16-31, refers to the Indiana emergency medical services commission.

(c) **"Commission", for purposes of IC 16-46-11.1, has the meaning set forth in IC 16-46-11.1-1.**

SECTION 2. IC 16-18-2-161.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 161.5. "Health care interpreter", for purposes of IC 16-46-11.1, has the meaning set forth in IC 16-46-11.1-2.**

SECTION 3. IC 16-18-2-163.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 163.5. "Health care translator", for purposes of IC 16-46-11.1, has the meaning set forth in IC 16-46-11.1-3.**

SECTION 4. IC 16-46-11.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 11.1. Commission on Health Care Interpreters and Translators

Sec. 1. For purposes of this chapter, "commission" refers to the commission on health care interpreters and translators established by section 4 of this chapter.

Sec. 2. For purposes of this chapter, "health care interpreter" means a professional interpreter who works primarily in the field of health care facilitating the oral communication among a:

- (1) provider;
- (2) patient; and
- (3) patient's family.

Sec. 3. For purposes of this chapter, "health care translator" means a professional translator who:

- (1) works primarily in the field of health care; and
- (2) specializes in the translation of written medical documents from one (1) language into another.

Sec. 4. The commission on health care interpreters and translators is established. The state department shall provide staff for the commission.

Sec. 5. (a) The commission consists of the following fifteen (15) members:

- (1) One (1) member representing the state department.
- (2) One (1) member representing local health departments.
- (3) One (1) member representing the medical profession.
- (4) One (1) member representing institutions of higher education in Indiana.
- (5) Two (2) members representing patient advocacy groups.
- (6) One (1) member representing community organizations.
- (7) One (1) member representing interpreter professional associations.
- (8) One (1) member representing translator professional associations.
- (9) One (1) member representing hospitals.
- (10) One (1) member representing the interagency state council on black and minority health.
- (11) One (1) member representing the department of correction who is nominated by the commissioner of the department of correction.
- (12) One (1) member representing the department of education who is nominated by the state superintendent of public instruction.
- (13) One (1) member representing the office of Medicaid policy and planning who is nominated by the director of the office of Medicaid policy and planning.
- (14) The executive director of the health professions bureau or the executive director's designee.

The state health commissioner shall appoint the members of the

commission designated by subdivisions (1) through (13). The appointments made under this subsection must be made in a manner to maintain cultural and language diversity.

(b) The state health commissioner shall designate:

- (1) one (1) member as chairperson of the commission; and
- (2) one (1) member as vice chairperson of the commission.

(c) Except for the member of the commission designated by subsection (a)(14), a member is appointed to a term of two (2) years or until a successor is appointed. A member may be reappointed to an unlimited number of terms.

(d) Except for the member of the commission designated by subsection (a)(14), if a member:

- (1) resigns;
- (2) dies; or
- (3) is removed from the commission;

before the expiration of the member's term, the state health commissioner shall appoint a new member to serve for the remainder of the term.

(e) The expenses of the commission shall be paid from funds appropriated to the state department.

(f) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) The affirmative votes of a majority of the members appointed to the commission are required for the commission to take action on any measure.

(h) The commission shall meet quarterly or on the call of the chairperson.

Sec. 6. The commission shall do the following:

- (1) Write bylaws concerning the operation of the commission.
- (2) Define the terms "health care interpreter" and "health care translator".
- (3) Review and determine the proper level of regulation or oversight that Indiana should have over health care interpreters and health care translators practicing in Indiana.
- (4) Recommend the level and type of education necessary to

perform the job of:

(A) a health interpreter; and

(B) a health care translator.

(5) Recommend standards that health care interpreters and health care translators should meet in order to practice in Indiana.

SECTION 5. [EFFECTIVE JULY 1, 2004] (a) The initial terms of office of the fourteen (14) individuals described IC 16-46-11.1-5(a)(1) through IC 16-46-11.1-5(a)(13), initially appointed to the commission on health care interpreters and translators under IC 16-46-11.1-5, as added by this act, are as follows:

(1) Seven (7) members for a term of one (1) year; and

(2) Seven (7) members for a term of two (2) years.

The state health commissioner shall designate the term of office of each individual initially appointed to the commission.

(b) This SECTION expires June 30, 2005.

SECTION 6. [EFFECTIVE JULY 1, 2004] (a) As used in this SECTION, "commission" refers to the commission on health care interpreters and translators established by IC 16-46-11.1-4, as added by this act.

(b) Not later than November 1, 2004, the commission shall report the commission's findings and recommendations determined under IC 16-46-11.1-6, as added by this act, to the health finance commission established by IC 2-5-23-3.

(c) This SECTION expires December 31, 2005.

P.L.62-2004

[H.1352. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-1-9, AS AMENDED BY P.L.45-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. Such rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

- (1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.
- (2) Minimum standards for law enforcement training schools administered by towns, cities, counties the northwest Indiana law enforcement training center, agencies, or departments of the state.
- (3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.
- (4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.
- (5) Minimum qualifications for instructors at approved law enforcement training schools.
- (6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.
- (7) Minimum basic training requirements which law enforcement

officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e) and (l), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy, **at the southwest Indiana law enforcement training academy under section 10.5 of this chapter**, or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer

may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27); regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs. In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required

amount of inservice training hours is due to any of the following:

- (1) An emergency situation.
- (2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

- (1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.
- (2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.
- (3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having no more than one (1) marshal and two (2) deputies.
- (4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.
- (5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

- (1) Liability.
- (2) Media relations.
- (3) Accounting and administration.
- (4) Discipline.
- (5) Department policy making.
- (6) Firearm policies.
- (7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief

initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

- (1) the police chief of any city; and
- (2) the police chief of any town having a metropolitan police department.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

- (1) before January 1, 1994, is not required; or
- (2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

SECTION 2. IC 5-2-1-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 10.5. (a) The board may adopt rules under IC 4-22-2 to establish a southwest Indiana law enforcement training academy.**

(b) If the board adopts rules under subsection (a) to establish a southwest Indiana law enforcement training academy, the board shall in accordance with IC 4-22-2 adopt rules establishing minimum standards for the southwest Indiana law enforcement training academy.

(c) The southwest Indiana law enforcement training academy may provide:

- (1) basic training to a law enforcement officer who is not accepted by the law enforcement academy for the next basic**

training course because the academy does not have a space for the officer in the next basic training course;

(2) pre-basic courses described in section 9(f) of this chapter;

(3) inservice training described in section 9(g) of this chapter; and

(4) other law enforcement training approved by the board;

if the training academy meets or exceeds the minimum standards established under subsection (b) by the board.

SECTION 3. [EFFECTIVE JULY 1, 2004] **The southwest Indiana law enforcement training academy may only receive funding from:**

(1) a local unit of government (as defined in IC 14-22-31.5-1);

(2) a unit of a fraternal order or a similar association;

(3) charitable contributions; or

(4) federal grants.

P.L.63-2004

[H.1438. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-1.5-4-2, AS ADDED BY P.L.224-2003, SECTION 260, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The board is composed of the following twenty-three (23) members, none of whom may be members of the general assembly:

(1) ~~Three (3)~~ **Fifteen (15)** persons appointed by the governor who must be employed in or retired from the private or nonprofit sector. **The following apply to appointments under this subdivision:**

(A) **The governor shall consider the recommendation of the speaker of the house of representatives when making one (1) appointment.**

(B) **The governor shall consider the recommendation of the**

minority leader of the house of representatives when making one (1) appointment.

(C) The governor shall consider the recommendation of the president pro tempore of the senate when making one (1) appointment.

(D) The governor shall consider the recommendation of the minority leader of the senate when making one (1) appointment.

(2) The lieutenant governor.

(3) Three (3) persons appointed by the speaker of the house of representatives who must be employed in or retired from the private or nonprofit sector:

(4) Three (3) persons appointed by the minority leader of the house of representatives who must be employed in or retired from the private or nonprofit sector:

(5) Three (3) persons appointed by the president pro tempore of the senate who must be employed in or retired from the private or nonprofit sector:

(6) Three (3) persons appointed by the minority leader of the senate who must be employed in or retired from the private or nonprofit sector:

(7) One (1) person appointed by the president of Indiana University who must be employed in or retired from the private or nonprofit sector or academia:

(8) One (1) person appointed by the president of Purdue University who must be employed in or retired from the private or nonprofit sector or academia:

(9) One (1) person appointed by the president of Indiana State University who must be employed in or retired from the private or nonprofit sector or academia:

(10) One (1) person appointed by the president of Ball State University who must be employed in or retired from the private or nonprofit sector or academia:

(11) One (1) person appointed by the president of the University of Southern Indiana who must be employed in or retired from the private or nonprofit sector or academia:

(12) One (1) person appointed by the president of Ivy Tech State College who must be employed in or retired from the private or

nonprofit sector or academia.

(13) One (1) person appointed by the president of Vincennes University who must be employed in or retired from the private or nonprofit sector or academia.

(3) Seven (7) persons appointed by the governor who must be employed in or retired from the private or nonprofit sector or academia, on recommendation of the following:

(A) The president of Indiana University.

(B) The president of Purdue University.

(C) The president of Indiana State University.

(D) The president of Ball State University.

(E) The president of the University of Southern Indiana.

(F) The president of Ivy Tech State College.

(G) The president of Vincennes University.

SECTION 2. IC 4-1.5-4-3, AS ADDED BY P.L.224-2003, SECTION 260, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Subject to section 4 of this chapter, ~~the terms of office of the voting members of the board are as follows:~~

~~(1) members appointed by the governor president pro tempore of the senate; or minority leader of the senate serve for terms of four (4) years.~~

~~(2) Members appointed by the speaker of the house of representatives; the minority leader of the house of representatives; or the president of a university or college serve for terms of two (2) years.~~

Each member shall hold office for the term of appointment and shall continue to serve after expiration of the appointment until a successor is appointed and qualified. Members are eligible for reappointment.

SECTION 3. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the enterprise zone study commission.**

(b) The commission consists of the following members:

(1) Two (2) members of the house of representatives appointed by the speaker of the house of representatives, who may not be members of the same political party.

(2) Two (2) members of the senate appointed by the president pro tempore of the senate, who may not be members of the

same political party.

(3) Two (2) members appointed by the speaker of the house of representatives who are individuals involved in the operation and implementation of enterprise zones or urban enterprise associations.

(4) Two (2) members appointed by the president pro tempore of the senate who are individuals involved in the operation and implementation of enterprise zones or urban enterprise associations.

(5) The executive director of the department of commerce or the executive director's designee, who is a nonvoting member of the commission.

(6) The commissioner of the department of local government finance or the commissioner's designee, who is a nonvoting member of the commission.

(c) The chairperson of the legislative council shall appoint a chairperson of the commission.

(d) The commission shall study the following:

(1) Means of assisting enterprise zones in attracting businesses to:

(A) downtown areas; and

(B) disadvantaged areas.

(2) Ways to replace sources of funding for urban enterprise associates that were the responsibility of the owners of inventory property located in an enterprise zone before the enactment of tax deductions that eliminate most property taxes on inventory.

(3) Ways to mitigate the shift to homeowners and other property taxpayers of the property tax levies that were the responsibility of the owners of inventory property before the enactment of tax deductions that eliminate most property taxes on inventory.

(e) The commission shall operate under the policies governing study committees adopted by the legislative council.

(f) The affirmative vote of a majority of the voting members appointed to the commission is required for the commission to take action on any measure, including the final report.

(g) This SECTION expires November 1, 2004.

SECTION 4. An emergency is declared for this act.

P.L.64-2004

[H.1005. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-5.5-3, AS AMENDED BY P.L.1-2004, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

(b) Except as provided in subsection (c), the auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency:

(1) before January 1, 2005, in an electronic format, if possible; and

(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.

The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(c) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor.

The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency:

- (1) before January 1, 2005, in an electronic format, if possible; and
- (2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.

~~The township assessor shall forward a copy of the sales disclosure forms to the township assessors in the county.~~ The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(d) If a sales disclosure form includes the telephone number or Social Security number of a party, the telephone number or Social Security number is confidential.

SECTION 2. IC 6-1.1-5.5-5, AS AMENDED BY P.L.90-2002, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. The department of local government finance shall prescribe a sales disclosure form for use under this chapter. The form prescribed by the department of local government finance must include at least the following information:

- (1) The key number of the parcel (as defined in IC 6-1.1-1-8.5).
- (2) Whether the entire parcel is being conveyed.
- (3) The address of the property.
- (4) The date of the execution of the form.
- (5) The date the property was transferred.
- (6) Whether the transfer includes an interest in land **or** improvements, or both.
- (7) Whether the transfer includes personal property.
- (8) An estimate of any personal property included in the transfer.
- (9) The name and address of each transferor and transferee.
- (10) The mailing address to which the property tax bills or other official correspondence should be sent.
- (11) The ownership interest transferred.
- (12) The classification of the property (as residential, commercial,

industrial, agricultural, vacant land, or other).

(13) The total price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, property, a service, an agreement, or other consideration, but excluding tax payments and payments for legal and other services that are incidental to the conveyance.

(14) The terms of seller provided financing, such as interest rate, points, type of loan, amount of loan, and amortization period, and whether the borrower is personally liable for repayment of the loan.

(15) Any family or business relationship existing between the transferor and the transferee.

(16) Other information as required by the department of local government finance to carry out this chapter.

If a form under this section includes the telephone number or the Social Security number of a party, the telephone number or the Social Security number is confidential.

SECTION 3. IC 6-1.1-12-43 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 43. (a) For purposes of this section:**

(1) "benefit" refers to:

(A) a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26, 29, 31, 33, or 34 of this chapter; or

(B) the homestead credit under IC 6-1.1-20.9-2;

(2) "closing agent" means a person that closes a transaction;

(3) "customer" means an individual who obtains a loan in a transaction; and

(4) "transaction" means a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction.

(b) Before closing a transaction after December 31, 2004, a closing agent must provide to the customer the form referred to in subsection (c).

(c) Before June 1, 2004, the department of local government finance shall prescribe the form to be provided by closing agents to customers under subsection (b). The department shall make the form available to closing agents, county assessors, county auditors, and county treasurers in hard copy and electronic form. County

assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:

(1) on one (1) side:

(A) list each benefit;

(B) list the eligibility criteria for each benefit; and

(C) indicate that a new application for a deduction under section 1 of this chapter is required when residential real property is refinanced;

(2) on the other side indicate:

(A) each action by; and

(B) each type of documentation from;

the customer required to file for each benefit; and

(3) be printed in one (1) of two (2) or more colors prescribed by the department of local government finance that distinguish the form from other documents typically used in a closing referred to in subsection (b).

(d) A closing agent:

(1) may reproduce the form referred to in subsection (c);

(2) in reproducing the form, must use a print color prescribed by the department of local government finance; and

(3) is not responsible for the content of the form referred to in subsection (c) and shall be held harmless by the department of local government finance from any liability for the content of the form.

(e) A closing agent to which this section applies shall document its compliance with this section with respect to each transaction in the form of verification of compliance signed by the customer.

(f) A closing agent is subject to a civil penalty of twenty-five dollars (\$25) for each instance in which the closing agent fails to comply with this section with respect to a customer. The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the closing agent in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into the property tax replacement fund.

A closing agent is not liable for any other damages claimed by a customer because of the closing agent's mere failure to provide the appropriate document to the customer.

(g) The state agency that has administrative jurisdiction over a

closing agent shall:

(1) examine the closing agent to determine compliance with this section; and

(2) impose and collect penalties under subsection (f).

SECTION 4. IC 6-1.1-12.1-1, AS AMENDED BY P.L.4-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. For purposes of this chapter:

(1) "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

(A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues; and

(B) a residentially distressed area, except as otherwise provided in this chapter.

(2) "City" means any city in this state, and "town" means any town incorporated under IC 36-5-1.

(3) "New manufacturing equipment" means any tangible personal property which:

(A) was installed after February 28, 1983, and before January 1, 2006, in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible personal property is allowed;

(B) is used in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including but not limited to use to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(C) was acquired by its owner for use as described in clause

(B) and was never before used by its owner for any purpose in

Indiana.

However, notwithstanding any other law, the term includes tangible personal property that is used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products and was installed after March 1, 1993, and before March 2, 1996, even if the property was installed before the area where the property is located was designated as an economic revitalization area or the statement of benefits for the property was approved by the designating body.

(4) "Property" means a building or structure, but does not include land.

(5) "Redevelopment" means the construction of new structures in economic revitalization areas, either:

(A) on unimproved real estate; or

(B) on real estate upon which a prior existing structure is demolished to allow for a new construction.

(6) "Rehabilitation" means the remodeling, repair, or betterment of property in any manner or any enlargement or extension of property.

(7) "Designating body" means the following:

(A) For a county that does not contain a consolidated city, the fiscal body of the county, city, or town.

(B) For a county containing a consolidated city, the metropolitan development commission.

(8) "Deduction application" means either:

(A) the application filed in accordance with section 5 of this chapter by a property owner who desires to obtain the deduction provided by section 3 of this chapter; or

(B) the application filed in accordance with section 5.5 of this chapter by a person who desires to obtain the deduction provided by section 4.5 of this chapter.

(9) "Designation application" means an application that is filed with a designating body to assist that body in making a determination about whether a particular area should be designated as an economic revitalization area.

(10) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a). The term includes waste determined to be a hazardous waste under IC 13-22-2-3(b).

(11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a). However, the term does not include dead animals or any animal solid or semisolid wastes.

(12) "New research and development equipment" means tangible personal property that:

(A) is installed after June 30, 2000, and before January 1, 2006, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

- (i) laboratory equipment;
- (ii) research and development equipment;
- (iii) computers and computer software;
- (iv) telecommunications equipment; or
- (v) testing equipment;

(C) is used in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products; and

(D) is acquired by the property owner for purposes described in this subdivision and was never before used by the owner for any purpose in Indiana.

The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy, history, or similar projects.

(13) "New logistical distribution equipment" means tangible personal property that:

(A) is installed after June 30, 2004, and before January 1, 2006, in an economic revitalization area:

- (i) in which a deduction for tangible personal property is allowed; and**
- (ii) located in a county referred to in section 2.3 of this chapter, subject to section 2.3(c) of this chapter.**

(B) consists of:

- (i) racking equipment;**
- (ii) scanning or coding equipment;**
- (iii) separators;**

- (iv) conveyors;
 - (v) fork lifts or lifting equipment (including "walk behinds");
 - (vi) transitional moving equipment;
 - (vii) packaging equipment;
 - (viii) sorting and picking equipment; or
 - (ix) software for technology used in logistical distribution;
 - (C) is used for the storage or distribution of goods, services, or information; and
 - (D) before being used as described in clause (C), was never used by its owner for any purpose in Indiana.
- (14) "New information technology equipment" means tangible personal property that:**
- (A) is installed after June 30, 2004, and before January 1, 2006, in an economic revitalization area:**
 - (i) in which a deduction for tangible personal property is allowed; and**
 - (ii) located in a county referred to in section 2.3 of this chapter, subject to section 2.3(c) of this chapter.**
 - (B) consists of equipment, including software, used in the fields of:**
 - (i) information processing;**
 - (ii) office automation;**
 - (iii) telecommunication facilities and networks;**
 - (iv) informatics;**
 - (v) network administration;**
 - (vi) software development; and**
 - (vii) fiber optics; and**
 - (C) before being installed as described in clause (A), was never used by its owner for any purpose in Indiana.**

SECTION 5. IC 6-1.1-12.1-2, AS AMENDED BY P.L.4-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area. However, the deduction provided by this chapter for economic revitalization areas not within a city or town shall not be available to retail businesses.

- (b) In a county containing a consolidated city or within a city or

town, a designating body may find that a particular area within its jurisdiction is a residentially distressed area. Designation of an area as a residentially distressed area has the same effect as designating an area as an economic revitalization area, except that the amount of the deduction shall be calculated as specified in section 4.1 of this chapter and the deduction is allowed for not more than five (5) years. In order to declare a particular area a residentially distressed area, the designating body must follow the same procedure that is required to designate an area as an economic revitalization area and must make all the following additional findings or all the additional findings described in subsection (c):

- (1) The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings or multifamily dwellings designed for up to four (4) families, including accessory buildings for those dwellings.
- (2) Any dwellings in the area are not permanently occupied and are:
 - (A) the subject of an order issued under IC 36-7-9; or
 - (B) evidencing significant building deficiencies.
- (3) Parcels of property in the area:
 - (A) have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or
 - (B) are owned by a unit of local government.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection or one (1) of the additional findings described in subsection (c).

(c) In a county containing a consolidated city or within a city or town, a designating body that wishes to designate a particular area a residentially distressed area may make the following additional findings as an alternative to the additional findings described in subsection (b):

- (1) A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land.
- (2) A significant number of dwelling units within the area are:
 - (A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States.

(4) The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection as an alternative to one (1) of the additional findings described in subsection (b).

(d) A designating body is required to attach the following conditions to the grant of a residentially distressed area designation:

(1) The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.

(2) If a designation application is filed, the designating body may require that the redevelopment or rehabilitation be completed within a reasonable period of time.

(e) To make a designation described in subsection (a) or (b), the designating body shall use procedures prescribed in section 2.5 of this chapter.

(f) The property tax deductions provided by sections 3 and 4.5 of this chapter are only available within an area which the designating body finds to be an economic revitalization area.

(g) The designating body may adopt a resolution establishing general standards to be used, along with the requirements set forth in the definition of economic revitalization area, by the designating body in finding an area to be an economic revitalization area. The standards must have a reasonable relationship to the development objectives of the area in which the designating body has jurisdiction. The following three (3) sets of standards may be established:

(1) One (1) relative to the deduction under section 3 of this chapter for economic revitalization areas that are not residentially distressed areas.

(2) One (1) relative to the deduction under section 3 of this chapter for residentially distressed areas.

(3) One (1) relative to the deduction allowed under section 4.5 of this chapter.

(h) A designating body may impose a fee for filing a designation application for a person requesting the designation of a particular area as an economic revitalization area. The fee may be sufficient to defray actual processing and administrative costs. However, the fee charged for filing a designation application for a parcel that contains one (1) or more owner-occupied, single-family dwellings may not exceed the cost of publishing the required notice.

(i) In declaring an area an economic revitalization area, the designating body may:

- (1) limit the time period to a certain number of calendar years during which the area shall be so designated;
- (2) limit the type of deductions that will be allowed within the economic revitalization area to either the deduction allowed under section 3 of this chapter or the deduction allowed under section 4.5 of this chapter;
- (3) limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment, ~~and~~ new research and development equipment, **new logistical distribution equipment, and new information technology equipment** if a deduction under this chapter had not been filed before July 1, 1987, for that equipment;
- (4) limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as economic revitalization areas on or after September 1, 1988; or
- (5) impose reasonable conditions related to the purpose of this chapter or to the general standards adopted under subsection (g) for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both:~~ **new logistical distribution equipment, or new information technology equipment.**

To exercise one (1) or more of these powers a designating body must include this fact in the resolution passed under section 2.5 of this chapter.

(j) Notwithstanding any other provision of this chapter, if a

designating body limits the time period during which an area is an economic revitalization area, that limitation does not:

- (1) prevent a taxpayer from obtaining a deduction for new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~, **new logistical distribution equipment, or new information technology equipment** installed before January 1, 2006, but after the expiration of the economic revitalization area if:
 - (A) the economic revitalization area designation expires after December 30, 1995; and
 - (B) the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~, **new logistical distribution equipment, or new information technology equipment** was described in a statement of benefits submitted to and approved by the designating body in accordance with section 4.5 of this chapter before the expiration of the economic revitalization area designation; or
 - (2) limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under section 4 or 4.5 of this chapter.
- (k) Notwithstanding any other provision of this chapter, deductions:
- (1) that are authorized under section 3 of this chapter for property in an area designated as an urban development area before March 1, 1983, and that are based on an increase in assessed valuation resulting from redevelopment or rehabilitation that occurs before March 1, 1983; or
 - (2) that are authorized under section 4.5 of this chapter for new manufacturing equipment installed in an area designated as an urban development area before March 1, 1983;

apply according to the provisions of this chapter as they existed at the time that an application for the deduction was first made. No deduction that is based on the location of property or new manufacturing equipment in an urban development area is authorized under this chapter after February 28, 1983, unless the initial increase in assessed value resulting from the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment occurred before March 1, 1983.

- (l) If property located in an economic revitalization area is also

located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), an application for the property tax deduction provided by this chapter may not be approved unless the commission that designated the allocation area adopts a resolution approving the application.

SECTION 6. IC 6-1.1-12.1-2.3 IS ADDED AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.3. (a)**

This section applies only to:

(1) a county in which mile markers fourteen (14) through one hundred twenty (120) of Interstate Highway 69 are located as of March 1, 2004; and

(2) a city or town located in a county referred to in subdivision (1).

(b) A designating body may adopt a resolution under section 2.5 of this chapter to authorize a deduction for new logistical distribution equipment or new information technology equipment.

(c) If any amendment to this chapter that takes effect July 1, 2004, applies a deduction under this chapter for new logistical distribution equipment or new information technology equipment to a broader geographic area than the deduction that would apply under a resolution adopted under this section, the more broadly applied deduction controls with respect to the application of the deduction for new logistical distribution equipment or new information technology equipment.

SECTION 7. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.1-2003, SECTION 22, AND AS AMENDED BY P.L.245-2003, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4.5. (a)** For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~, new logistical distribution equipment, or new information technology equipment for which the person desires to claim a deduction under this chapter. The department of local

government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, **new logistical distribution equipment, or new information technology equipment;**

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, **new logistical distribution equipment, or new information technology equipment;**

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment.**

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment.**

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), an owner of new manufacturing equipment, ~~or new research and development equipment, or both,~~ **new logistical distribution equipment, or new information technology equipment** whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:

- (1) the assessed value of the new manufacturing equipment, ~~or new research and development equipment, or both,~~ **new logistical distribution equipment, or new information technology equipment** in the year of deduction under the appropriate table set forth in subsection (e); multiplied by
- (2) the percentage prescribed in the *appropriate* table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

- (1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

- (2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

- (3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

- (4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%

4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

(1) the deduction under this section as in effect on March 1, 2001;

and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

- (1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or
- (2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

SECTION 8. IC 6-1.1-12.1-5.4, AS AMENDED BY P.L.245-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.4. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction application on forms prescribed by the department of local government finance with the auditor of the county in which the new

manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~; **new logistical distribution equipment, or new information technology equipment** is located. A person that timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~; **new logistical distribution equipment, or new information technology equipment** is installed must file the application between March 1 and May 15 of that year. A person that obtains a filing extension under IC 6-1.1-3-7(b) for the year in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~; **new logistical distribution equipment, or new information technology equipment** is installed must file the application between March 1 and the extended due date for that year.

(b) The deduction application required by this section must contain the following information:

(1) The name of the owner of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~; **new logistical distribution equipment, or new information technology equipment.**

(2) A description of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~; **new logistical distribution equipment, or new information technology equipment.**

(3) Proof of the date the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~; **new logistical distribution equipment, or new information technology equipment** was installed.

(4) The amount of the deduction claimed for the first year of the deduction.

(c) This subsection applies to a deduction application with respect to new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~; **new logistical distribution equipment, or new information technology equipment** for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body,

and the designating body shall adopt a resolution under section 4.5(g)(2) of this chapter.

(d) A deduction application must be filed under this section in the year in which the new manufacturing equipment, ~~or new research and development equipment, or both,~~ **new logistical distribution equipment, or new information technology equipment** is installed and in each of the immediately succeeding years the deduction is allowed.

(e) Subject to subsection (i), the county auditor shall:

(1) review the deduction application; and

(2) approve, deny, or alter the amount of the deduction.

Upon approval of the deduction application or alteration of the amount of the deduction, the county auditor shall make the deduction. The county auditor shall notify the county property tax assessment board of appeals of all deductions approved under this section.

(f) If the ownership of new manufacturing equipment, ~~or new research and development equipment, or both,~~ **new logistical distribution equipment, or new information technology equipment** changes, the deduction provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

(1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and

(2) files the deduction applications required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) A person may appeal the determination of the county auditor under subsection (e) by filing a complaint in the office of the clerk of the circuit or superior court not more than forty-five (45) days after the county auditor gives the person notice of the determination.

(i) Before the county auditor acts under subsection (e), the county auditor may request that the township assessor in which the property is located review the deduction application.

SECTION 9. IC 6-1.1-12.1-5.6, AS AMENDED BY P.L.4-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.6. (a) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of

this chapter before July 1, 1991. In addition to the requirements of section 5.5(b) of this chapter, a deduction application filed under section 5.5 of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction application.

(b) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter after June 30, 1991. In addition to the requirements of section 5.5(b) of this chapter, a property owner who files a deduction application under section 5.5 of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter.

(c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following information is a public record if filed under this section:

- (1) The name and address of the taxpayer.
- (2) The location and description of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** for which the deduction was granted.
- (3) Any information concerning the number of employees at the facility where the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** is located, including estimated totals that were provided as part of the statement of benefits.
- (4) Any information concerning the total of the salaries paid to those employees, including estimated totals that were provided as part of the statement of benefits.
- (5) Any information concerning the amount of solid waste or hazardous waste converted into energy or other useful products by the new manufacturing equipment.
- (6) Any information concerning the assessed value of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** including estimates that

were provided as part of the statement of benefits.

(d) The following information is confidential if filed under this section:

(1) Any information concerning the specific salaries paid to individual employees by the owner of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both:~~ **new logistical distribution equipment, or new information technology equipment.**

(2) Any information concerning the cost of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both:~~ **new logistical distribution equipment, or new information technology equipment.**

SECTION 10. IC 6-1.1-12.1-5.8, AS AMENDED BY P.L.256-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.8. In lieu of providing the statement of benefits required by section 3 or 4.5 of this chapter and the additional information required by section 5.1 or 5.6 of this chapter, the designating body may, by resolution, waive the statement of benefits if the designating body finds that the purposes of this chapter are served by allowing the deduction and the property owner has, during the thirty-six (36) months preceding the first assessment date to which the waiver would apply, installed new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both:~~ **new logistical distribution equipment, or new information technology equipment** or developed or rehabilitated property at a cost of at least ten million dollars (\$10,000,000) as determined by the assessor of the township in which the property is located.

SECTION 11. IC 6-1.1-12.1-8, AS AMENDED BY P.L.90-2002, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) Not later than December 31 of each year, the county auditor shall publish the following in a newspaper of general interest and readership and not one of limited subject matter:

(1) A list of the approved deduction applications that were filed under this chapter during that year. The list must contain the following:

(A) The name and address of each person approved for or receiving a deduction that was filed for during the year.

(B) The amount of each deduction that was filed for during the year.

(C) The number of years for which each deduction that was filed for during the year will be available.

(D) The total amount for all deductions that were filed for and granted during the year.

(2) The total amount of all deductions for real property that were in effect under section 3 of this chapter during the year.

(3) The total amount of all deductions for new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** that were in effect under section 4.5 of this chapter during the year.

(b) The county auditor shall file the information described in subsection (a)(2) and (a)(3) with the department of local government finance not later than December 31 of each year.

SECTION 12. IC 6-1.1-12.1-11.3, AS AMENDED BY P.L.245-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11.3. (a) This section applies only to the following requirements:

(1) Failure to provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter.

(2) Failure to submit the completed statement of benefits form to the designating body before the initiation of the redevelopment or rehabilitation or the installation of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** for which the person desires to claim a deduction under this chapter.

(3) Failure to designate an area as an economic revitalization area before the initiation of the:

(A) redevelopment;

(B) installation of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment;** or

(C) rehabilitation;

for which the person desires to claim a deduction under this chapter.

(4) Failure to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction for new manufacturing equipment, ~~or new research and development equipment, or both,~~ **new logistical distribution equipment, or new information technology equipment** under section 2, 3, or 4.5 of this chapter.

(5) Failure to file a:

(A) timely; or

(B) complete;

deduction application under section 5 or 5.4 of this chapter.

(b) This section does not grant a designating body the authority to exempt a person from filing a statement of benefits or exempt a designating body from making findings of fact.

(c) A designating body may by resolution waive noncompliance described under subsection (a) under the terms and conditions specified in the resolution. Before adopting a waiver under this subsection, the designating body shall conduct a public hearing on the waiver.

SECTION 13. IC 6-1.1-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The county treasurer shall either:

(1) mail to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book a statement of current and delinquent taxes and special assessments; or

(2) transmit by written, electronic, or other means to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records a statement of current and delinquent taxes and special assessments.

(b) The county treasurer may include the following in the statement:

(1) An itemized listing for each property tax levy, including:

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

- (2) Information designed to inform the taxpayer or mortgagee clearly and accurately of the manner in which the taxes billed in the tax statement are to be used.

A form used and the method by which the statement and information, if any, are transmitted must be approved by the state board of accounts. The county treasurer may mail or transmit the statement and information, if any, one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment.

(c) All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

(d) Before July 1, 2004, the department of local government finance shall designate five (5) counties to participate in a pilot program to implement the requirements of subsection (e). The department shall immediately notify the county treasurer, county auditor, and county assessor in writing of the designation under this subsection. The legislative body of a county not designated for participation in the pilot program may adopt an ordinance to implement the requirements of subsection (e). The legislative body shall submit a copy of the ordinance to the department of local government finance, which shall monitor the county's implementation of the requirements of subsection (e) as if the county were a participant in the pilot program. The requirements of subsection (e) apply:

- (1) only in:**

(A) a county designated to participate in a pilot program under this subsection, for property taxes first due and payable after December 31, 2004, and before January 1, 2008; or

(B) a county adopting an ordinance under this subsection, for property taxes first due and payable after December 31, 2003, or December 31, 2004 (as determined in the ordinance), and before January 1, 2008; and

(2) in all counties for taxes first due and payable after December 31, 2007.

(e) Subject to subsection (d), regardless of whether a county treasurer transmits a statement of current and delinquent taxes and special assessments to a person liable for the taxes under subsection (a)(1) or to a mortgagee under subsection (a)(2), the county treasurer shall mail the following information to the last known address of each person liable for the property taxes or special assessments or to the last known address of the most recent owner shown in the transfer book. The county treasurer shall mail the information not later than the date the county treasurer transmits a statement for the property under subsection (a)(1) or (a)(2). The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included on the form. The information that must be provided is the following:

(1) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.

(2) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(3) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year.

(4) An explanation of the following:

(A) The homestead credit and all property tax deductions.

(B) The procedure and deadline for filing for the homestead credit and each deduction.

(C) The procedure that a taxpayer must follow to:

- (i) appeal a current assessment; or**
- (ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.**

(D) The forms that must be filed for an appeal or petition described in clause (C).

The department of local government finance shall provide the explanation required by this subdivision to each county treasurer.

(5) A checklist that shows:

- (A) the homestead credit and all property tax deductions; and**
- (B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (a)(1) or (a)(2).**

(f) The information required to be mailed under subsection (e) must be simply and clearly presented and understandable to the average individual.

(g) A county that incurs:

- (1) initial computer programming costs directly related to implementation of the requirements of subsection (e); or**
- (2) printing costs directly related to mailing information under subsection (e);**

shall submit an itemized statement of the costs to the department of local government finance for reimbursement from the state. The treasurer of state shall pay a claim approved by the department of local government finance and submitted under this section on a warrant of the auditor of state. However, the treasurer of state may not pay any additional claims under this subsection after the total amount of claims paid reaches fifty thousand dollars (\$50,000).

SECTION 14. IC 6-1.1-33.5-2, AS AMENDED BY HEA 1032-2004, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The division of data analysis shall do the following:

- (1) Compile an electronic data base that includes the following:**
 - (A) The local government data base.**
 - (B) Information on sales of real and personal property, including **nonconfidential** information from sales disclosure**

forms filed under IC 6-1.1-5.5.

(C) Personal property assessed values and data entries on personal property return forms.

(D) Real property assessed values and data entries on real property assessment records.

(E) Information on property tax exemptions, deductions, and credits.

(F) Any other data relevant to the accurate determination of real property and personal property tax assessments.

(2) Make available to each county and township software that permits the transfer of the data described in subdivision (1) to the division in a uniform format through a secure connection over the Internet.

(3) Analyze the data compiled under this section for the purpose of performing the functions under section 3 of this chapter.

(4) Conduct continuing studies of personal and real property tax deductions, abateements, and exemptions used throughout Indiana. The division of data analysis shall, before May 1 of each even-numbered year, report on the studies at a meeting of the budget committee and submit a report on the studies to the legislative services agency for distribution to the members of the legislative council. The report must be in an electronic format under IC 5-14-6.

SECTION 15. IC 24-4.5-3-701 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 701. With respect to a consumer loan secured by an interest in land used or expected to be used as the principal dwelling of the debtor, a lender shall comply with IC 6-1.1-12-43.**

SECTION 16. IC 25-34.1-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this article:

"Person" means an individual, a partnership, a corporation, or a limited liability company.

"Commission" means the Indiana real estate commission.

"Real estate" means any right, title, or interest in real property.

"Broker" means a person who, for consideration, sells, buys, trades, exchanges, options, leases, rents, manages, lists, or appraises real estate

or negotiates or offers to perform any of those acts.

"Salesperson" means an individual, other than a broker, who, for consideration and in association with and under the auspices of a broker, sells, buys, trades, exchanges, options, leases, rents, manages, or lists real estate or negotiates or offers to perform any of those acts.

"Broker-salesperson" means an individual broker who is acting in association with and under the auspices of another broker.

"Principal broker" means a broker who is not acting as a broker-salesperson.

"License" means a broker or salesperson license issued under this article and which is not expired, suspended, or revoked.

"Licensee" means a person who holds a license issued under this article. The term does not include a person who holds a real estate appraiser license or certificate issued under the real estate appraiser licensure and certification program established under IC 25-34.1-3-8.

"Course approval" means approval of a broker or salesperson course granted under this article which is not expired, suspended, or revoked.

"Licensing agency" means the Indiana professional licensing agency established by IC 25-1-6-3.

"Board" refers to the real estate appraiser licensure and certification board established under IC 25-34.1-8-1.

"Commercial real estate" means a parcel of real estate other than real estate containing one (1) to four (4) residential units. This term does not include single family residential units such as:

- (1) condominiums;**
- (2) townhouses;**
- (3) manufactured homes; or**
- (4) homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even if those units are part of a larger building or parcel of real estate containing more than four (4) residential units.**

"Out-of-state commercial broker" includes a person, a partnership, an association, a limited liability company, a limited liability partnership, or a corporation that is licensed to do business as a broker in a jurisdiction other than Indiana.

"Out-of-state commercial salesperson" includes a person affiliated with an out-of-state commercial broker who is not licensed as a salesperson under this article.

SECTION 17. IC 25-34.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in:

- (1) subsection (b); **and**
- (2) section 8(i) of this chapter; **and**
- (3) section 11 of this chapter;**

no person shall, for consideration, sell, buy, trade, exchange, option, lease, rent, manage, list, or appraise real estate or negotiate or offer to perform any of those acts in Indiana or with respect to real estate situated in Indiana, without a license.

(b) This article does not apply to:

- (1) acts of an attorney which constitute the practice of law;
- (2) performance by a public official of acts authorized by law;
- (3) acts of a receiver, executor, administrator, commissioner, trustee, or guardian, respecting real estate owned or leased by the person represented, performed pursuant to court order or a will;
- (4) rental, for periods of less than thirty (30) days, of rooms, lodging, or other accommodations, by any commercial hotel, motel, tourist facility, or similar establishment which regularly furnishes such accommodations for consideration;
- (5) rental of residential apartment units by an individual employed or supervised by a licensed broker;
- (6) rental of apartment units which are owned and managed by a person whose only activities regulated by this article are in relation to a maximum of twelve (12) apartment units which are located on a single parcel of real estate or on contiguous parcels of real estate;
- (7) referral of real estate business by a broker, salesperson, or referral company which is licensed under the laws of another state, to or from brokers and salespersons licensed by this state;
- (8) acts performed by a person in relation to real estate owned by that person unless that person is licensed under this article, in which case the article does apply to him;
- (9) acts performed by a regular, full-time, salaried employee of a person in relation to real estate owned or leased by that person unless the employee is licensed under this article, in which case the article does apply to him;
- (10) conduct of a sale at public auction by a licensed auctioneer

pursuant to IC 25-6.1;

(11) sale, lease, or other transfer of interests in cemetery lots; and
(12) acts of a broker or salesperson, who is licensed under the laws of another state, which are performed pursuant to, and under restrictions provided by, written permission that is granted by the commission in its sole discretion, except that such a person shall comply with the requirements of section 5(c) of this chapter.

SECTION 18. IC 25-34.1-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.1. (a) To obtain a broker license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(B) a crime that has a direct bearing on the individual's ability to practice competently; or

(C) a crime that indicates the individual has the propensity to endanger the public.

(2) have satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana; however, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;

(3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5(b);

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the business is to be conducted, proof of compliance with subdivisions (2) and (3), and any other information the commission requires;

(5) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(6) within one hundred twenty (120) days after passing the commission examination, submit the license fee of fifty dollars (\$50). If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a

license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

(b) To obtain a broker license, a partnership must:

- (1) have as partners only individuals who are licensed brokers;
- (2) have at least one (1) partner who:

(A) is a resident of Indiana; **or**

(B) is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the partnership who acts as a broker or salesperson to be licensed; and

(4) submit the license fee of fifty dollars (\$50) and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).

(c) To obtain a broker license, a corporation must:

(1) have a licensed broker:

(A) residing in Indiana who is either an officer of the corporation or, if no officer resides in Indiana, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions; **or**

(B) who is a principal broker under IC 25-34.1-4-3(b);

(2) cause each employee of the corporation who acts as a broker or salesperson to be licensed; and

(3) submit the license fee of fifty dollars (\$50), an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state of Indiana.

(d) To obtain a broker license, a limited liability company must:

(1) if a member-managed limited liability company:

(A) have as members only individuals who are licensed brokers; and

(B) have at least one (1) member who is:

(i) a resident of Indiana; **or**

(ii) a principal broker under IC 25-34.1-4-3(b);

(2) if a manager-managed limited liability company, have a licensed broker:

(A) residing in Indiana who is either a manager of the company or, if no manager resides in Indiana, the highest ranking company officer or employee in Indiana with authority

to bind the company in real estate transactions; or

(B) who is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the limited liability company who acts as a broker or salesperson to be licensed; and

(4) submit the license fee of fifty dollars (\$50) and an application setting forth the information prescribed in subsection (a)(4), together with:

(A) if a member-managed company, the name and residence address of each member; or

(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

(1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or

(2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business.

(g) Notice of passing the commission examination serves as a temporary permit for an individual applicant to act as a broker as soon as the applicant sends, by registered or certified mail with return receipt requested, a timely license fee as prescribed in subsection (a)(6). The temporary permit expires the earlier of one hundred twenty (120) days after the date of the notice of passing the examination or the date a license is issued.

(h) A broker license expires, for individuals, at midnight, December 31 and, for corporations, partnerships, and limited liability companies

at midnight, June 30 of the next even-numbered year following the year in which the license is issued or last renewed, unless the licensee renews the license prior to expiration by payment of a biennial license fee of fifty dollars (\$50). An expired license may be reinstated within one hundred twenty (120) days after expiration by payment of all unpaid license fees together with twenty dollars (\$20). If the license is renewed within eighteen (18) months, but more than one hundred twenty (120) days, after expiration, the licensee must pay a late fee of one hundred dollars (\$100) plus any unpaid license fees. If a broker fails to reinstate a license within eighteen (18) months after expiration, a license may not be issued unless the broker again complies with the requirements of subsection (a)(4), (a)(5), and (a)(6).

(i) A partnership, corporation, or limited liability company may not be a broker-salesperson except as authorized in IC 23-1.5. An individual broker who associates as a broker-salesperson with a principal broker shall immediately notify the commission of the name and business address of the principal broker and of any changes of principal broker that may occur. The commission shall then change the address of the broker-salesperson on its records to that of the principal broker.

SECTION 19. IC 25-34.1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A resident of another state, meeting the requirements of this chapter, may be licensed.

~~(b) A nonresident individual broker may act only as a broker-salesperson.~~

~~(c)~~ (b) A nonresident salesperson or broker shall file with the commission a written consent that any action arising out of the conduct of the licensee's business in Indiana may be commenced in any county of this state in which the cause of action accrues. The consent shall provide that service of process may be made upon the commission, as agent for the nonresident licensee, and that service in accordance with the Indiana Rules of Trial Procedure subjects the licensee to the jurisdiction of the courts in that county.

~~(d)~~ (c) The requirements of this section may be waived for individuals of or moving from other jurisdictions if the following requirements are met:

(1) The jurisdiction grants the same privilege to the licensees of

this state.

(2) The individual is licensed in that jurisdiction.

(3) The licensing requirements of that jurisdiction are substantially similar to the requirements of this chapter.

(4) The applicant states that the applicant has studied, is familiar with, and will abide by the statutes and rules of this state.

SECTION 20. IC 25-34.1-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 11. (a) An out-of-state commercial broker, for a fee, commission, or other valuable consideration, or in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, may perform acts with respect to commercial real estate that require a license under this article without a license under this article, if the out-of-state commercial broker does all of the following:**

(1) Works in cooperation with a broker who holds a valid license issued under this article.

(2) Enters into a written agreement with the broker described in subdivision (1) that includes the terms of cooperation and compensation and a statement that the out-of-state commercial broker and the broker's agents will comply with the laws of this state.

(3) Furnishes the broker described in subdivision (1) with a copy of the out-of-state commercial broker's current certificate of good standing or other proof of a license in good standing from a jurisdiction where the out-of-state commercial broker maintains a valid real estate license.

(4) Files an irrevocable written consent with the commission that legal actions arising out of the conduct of the out-of-state commercial broker or the broker's agents may be commenced against the out-of-state commercial broker in a court with jurisdiction in a county in Indiana in which the cause of action accrues.

(5) Advertises in compliance with state law and includes the name of the broker described in subdivision (1) in all advertising.

(6) Deposits all escrow funds, security deposits, and other money received by either the out-of-state commercial broker

or the broker described in subdivision (1) in a trust account maintained by the broker described in subdivision (1).

(7) Deposits all documentation required by this section and records and documents related to the transaction with the broker described in subdivision (1).

(b) The broker described in subsection (a)(1) shall retain the documentation that is provided by the out-of-state commercial broker as required under this section, and the records and documents related to a transaction, for at least five (5) years.

(c) An out-of-state commercial salesperson may perform acts with respect to commercial real estate that require a salesperson to be licensed under this article without a license under this article if the out-of-state commercial salesperson meets all of the following requirements:

(1) The out-of-state commercial salesperson:

(A) is licensed with and works under the direct supervision of the out-of-state commercial broker;

(B) provides the broker described in subsection (a)(1) with a copy of the out-of-state commercial salesperson's current certificate of good standing or other proof of a license in good standing from the jurisdiction where the out-of-state commercial salesperson maintains a valid real estate license in connection with the out-of-state commercial broker; and

(C) collects money, including:

(i) commissions;

(ii) deposits;

(iii) payments;

(iv) rentals; or

(v) escrow funds;

only in the name of and with the consent of the out-of-state commercial broker under whom the out-of-state commercial salesperson is licensed.

(2) The out-of-state commercial broker described in subdivision (1)(A) meets all of the requirements of subsection (a).

(d) A person licensed in a jurisdiction where there is not a legal distinction between a real estate broker license and a real estate salesperson license must meet the requirements of subsection (a)

before engaging in an act that requires a license under this article.

(e) An out-of-state commercial broker or salesperson acting under this section shall file a written consent as provided in section 5(b) of this chapter.

SECTION 21. IC 25-34.1-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) Except as provided in subsection (b),** each individual who is a principal broker or is designated by a partnership, corporation, or a limited liability company pursuant to section 2 of this chapter shall be a resident of Indiana.

(b) A nonresident:

(1) individual broker; or

(2) individual designated by a partnership, corporation, or limited liability company under section 2 of this chapter;

may be a principal broker if all the licensees affiliated with the broker, partnership, corporation, or limited liability company are not residents of Indiana.

SECTION 22. IC 27-1-15.6-4, AS AMENDED BY P.L.129-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) As used in this section, "insurer" does not include an officer, director, employee, subsidiary, or affiliate of an insurer.

(b) This chapter does not require an insurer to obtain an insurance producer license.

(c) The following are not required to be licensed as an insurance producer:

(1) An officer, director, or employee of an insurer or of an insurance producer, if the officer, director, or employee does not receive any commission on policies written or sold to insure risks that reside, are located, or are to be performed in Indiana, and if:

(A) the officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(B) the officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(C) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers and the officer, director, or employee's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of:

(A) group life insurance, group property and casualty insurance, group annuities, group or blanket accident and sickness insurance;

(B) enrolling individuals under plans;

(C) issuing certificates under plans or otherwise assisting in administering plans; or

(D) performing administrative services related to mass marketed property and casualty insurance;

where no commission is paid to the person for the service.

(3) A person identified in clauses (A) through (C) who is not in any manner compensated, directly or indirectly, by a company issuing a contract, to the extent that the person is engaged in the administration or operation of a program of employee benefits for the employer's or association's employees, or for the employees of a subsidiary or affiliate of the employer or association, that involves the use of insurance issued by an insurer:

(A) An employer or association.

(B) An officer, director, or employee of an employer or association.

(C) The trustees of an employee trust plan.

(4) An:

(A) employee of an insurer; or

(B) organization employed by insurers;

that is engaged in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers, and that is not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in Indiana are limited to advertising, without the intent to solicit insurance in Indiana, through communications in printed publications or other forms of

electronic mass media whose distribution is not limited to residents of Indiana, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in Indiana.

(6) A person who is not a resident of Indiana and who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that:

(A) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate the insurance in the state where the insured maintains its principal place of business; and

(B) the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises the employee's employer about the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

(8) An officer, employee, or representative of a rental company (as defined in IC 24-4-9-7) who negotiates or solicits insurance incidental to and in connection with the rental of a motor vehicle.

(9) An individual who:

(A) furnishes only title insurance rate information at the request of a consumer; and

(B) does not discuss the terms or conditions of a title insurance policy.

SECTION 23. IC 27-1-15.6-6, AS AMENDED BY P.L.1-2002, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A person applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief.

(b) Before approving an application submitted under subsection (a), the commissioner must find that the individual meets the following requirements:

(1) Is at least eighteen (18) years of age.

(2) Has not committed any act that is a ground for denial,

suspension, or revocation under section 12 of this chapter.

(3) Has completed, if required by the commissioner, a certified preclicensing course of study for the lines of authority for which the individual has applied.

(4) Has paid the nonrefundable fee set forth in section 32 of this chapter.

(5) Has successfully passed the examinations for the lines of authority for which the individual has applied.

(c) An applicant for a resident insurance producer license must file with the commissioner on a form prescribed by the commissioner a certification of completion certifying that the applicant has completed an insurance producer program of study certified by the commissioner under IC 27-1-15.7-5 not more than six (6) months before the application for the license is received by the commissioner. This subsection applies only to licensees seeking qualification in the lines of insurance described in sections 7(a)(1) through 7(a)(6) **and 7(a)(8)** of this chapter.

(d) A business entity, before acting as an insurance producer, is required to obtain an insurance producer license. The application submitted by a business entity under this subsection must be made using the uniform business entity application. Before approving the application, the commissioner must find that the business entity has:

- (1) paid the fees required under section 32 of this chapter; and
- (2) designated an individual licensed producer responsible for the business entity's compliance with the insurance laws and administrative rules of Indiana.

(e) The commissioner may require any documents reasonably necessary to verify the information contained in an application submitted under this subsection.

(f) An insurer that sells, solicits, or negotiates any form of limited line credit insurance shall provide a program of instruction approved by the commissioner to each individual whose duties will include selling, soliciting, or negotiating limited line credit insurance.

SECTION 24. IC 27-1-15.6-7, AS ADDED BY P.L.132-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Unless denied licensure under section 12 of this chapter, a person who has met the requirements of sections 5 and 6 of this chapter shall be issued an insurance producer license. An

insurance producer may receive qualification for a license in one or more of the following lines of authority:

(1) Life — insurance coverage on human lives, including benefits of endowment and annuities, that may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(2) Accident and health or sickness — insurance coverage for sickness, bodily injury, or accidental death that may include benefits for disability income.

(3) Property — insurance coverage for the direct or consequential loss of or damage to property of every kind.

(4) Casualty — insurance coverage against legal liability, including liability for death, injury, or disability, or for damage to real or personal property.

(5) Variable life and variable annuity products — insurance coverage provided under variable life insurance contracts and variable annuities.

(6) Personal lines — property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(7) Credit — limited line credit insurance.

(8) **Title — insurance coverage against loss or damage on account of encumbrances on or defects in the title to real estate.**

(9) Any other line of insurance permitted under Indiana laws or administrative rules.

(b) A person who requests and receives qualification under subsection (a)(5) for variable life and annuity products:

(1) is considered to have requested; and

(2) shall receive;

a life qualification under subsection (a)(1).

(c) A resident insurance producer may not request separate qualifications for property insurance and casualty insurance under subsection (a).

(d) An insurance producer license remains in effect unless revoked or suspended, as long as the renewal fee set forth in section 32 of this chapter is paid and the educational requirements for resident individual producers are met by the due date.

(e) An individual insurance producer who:

- (1) allows the individual insurance producer's license to lapse; and
- (2) completed all required continuing education before the license expired;

may, not more than twelve (12) months after the expiration date of the license, reinstate the same license without the necessity of passing a written examination. A penalty in the amount of three (3) times the unpaid renewal fee shall be required for any renewal fee received after the expiration date of the license. However, the department of insurance may waive the penalty if the renewal fee is received not more than thirty (30) days after the expiration date of the license.

(f) A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance may request a waiver of the license renewal procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with the license renewal procedures.

(g) An insurance producer license shall contain the licensee's name, address, personal identification number, date of issuance, lines of authority, expiration date, and any other information the commissioner considers necessary.

(h) A licensee shall inform the commissioner of a change of address not more than thirty (30) days after the change by any means acceptable to the commissioner. The failure of a licensee to timely inform the commissioner of a change in legal name or address shall result in a penalty under section 12 of this chapter.

(i) To assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC), or any affiliates or subsidiaries that the NAIC oversees, to perform ministerial functions, including the collection of fees related to producer licensing, that the commissioner and the nongovernmental entity consider appropriate.

(j) The commissioner may participate, in whole or in part, with the NAIC or any affiliate or subsidiary of the NAIC in a centralized insurance producer license registry through which insurance producer licenses are centrally or simultaneously effected for states that require

an insurance producer license and participate in the centralized insurance producer license registry. If the commissioner determines that participation in the centralized insurance producer license registry is in the public interest, the commissioner may adopt rules under IC 4-22-2 specifying uniform standards and procedures that are necessary for participation in the registry, including standards and procedures for centralized license fee collection.

SECTION 25. IC 27-1-15.7-2, AS AMENDED BY P.L.1-2002, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) **Except as provided in subsection (b),** to renew a license issued under IC 27-1-15.6:

- (1) a resident insurance producer must complete at least forty (40) hours of credit in continuing education courses; and
- (2) a resident limited lines producer must complete at least ten (10) hours of credit in continuing education courses.

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses that are related to the business of insurance.

(b) To renew a license issued under IC 27-1-15.6, a limited lines producer with a title qualification under IC 27-1-15.6-7(a)(8) must complete at least fourteen (14) hours of credit in continuing education courses related to the business of title insurance with at least four (4) hours of instruction in a structured setting or comparable self-study concerning:

- (1) ethical practices in the marketing and selling of title insurance;**
- (2) title insurance underwriting;**
- (3) escrow issues; and**
- (4) principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).**

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 with a title qualification under IC 27-1-15.6-7(a)(8) may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses related to the business of title

insurance or any aspect of real property law.

(c) The following limited lines producers are not required to complete continuing education courses to renew a license under this chapter:

(1) A limited lines producer who is licensed without examination under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).

(2) A limited line credit insurance producer.

~~(c)~~ (d) To satisfy the requirements of subsection (a) **or (b)**, a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

(1) after the effective date of the licensee's last renewal of a license under this chapter; or

(2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

~~(d)~~ (e) If an insurance producer receives qualification for a license in more than one (1) line of authority under IC 27-1-15.6, the insurance producer may not be required to complete a total of more than forty (40) hours of credit in continuing education courses to renew the license.

~~(e)~~ (f) Except as provided in subsection ~~(f)~~ (g), a licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 4 of this chapter.

~~(f)~~ (g) A licensee who teaches a course approved by the commissioner under section 4 of this chapter shall receive continuing education credit for teaching the course.

~~(g)~~ (h) When a licensee renews a license issued under this chapter, the licensee must submit:

(1) a continuing education statement that:

(A) is in a format authorized by the commissioner;

(B) is signed by the licensee under oath; and

(C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements of this section; and

(2) any other information required by the commissioner.

~~(h)~~ (i) A continuing education statement submitted under subsection ~~(g)~~ (h) may be reviewed and audited by the department.

⌚ (j) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

SECTION 26. IC 27-1-15.7-5, AS ADDED BY P.L.132-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) To qualify as a certified prelicensing course of study for purposes of IC 27-1-15.6-6, an insurance producer program of study must meet all of the following criteria:

- (1) Be conducted or developed by an:
 - (A) insurance trade association;
 - (B) accredited college or university;
 - (C) educational organization certified by the insurance producer education and continuing education advisory council;or
 - (D) insurance company licensed to do business in Indiana.

(2) Provide for self-study or instruction provided by an approved instructor in a structured setting, as follows:

(A) For life insurance producers, not less than twenty-four (24) hours of instruction in a structured setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of insurance;
- (ii) requirements of the insurance laws and administrative rules of Indiana; and
- (iii) principles of life insurance.

(B) For health insurance producers, not less than twenty-four (24) hours of instruction in a structured setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of insurance;
- (ii) requirements of the insurance laws and administrative rules of Indiana; and
- (iii) principles of health insurance.

(C) For life and health insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of insurance;

- (ii) requirements of the insurance laws and administrative rules of Indiana;
- (iii) principles of life insurance; and
- (iv) principles of health insurance.

(D) For property and casualty insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of insurance;
- (ii) requirements of the insurance laws and administrative rules of Indiana;
- (iii) principles of property insurance; and
- (iv) principles of liability insurance.

(E) For personal lines producers, a minimum of twenty-four (24) hours of instruction in a structured setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of insurance;
- (ii) requirements of the insurance laws and administrative rules of Indiana; and
- (iii) principles of property and liability insurance applicable to coverages sold to individuals and families for primarily noncommercial purposes.

(F) For title insurance producers, not less than ten (10) hours of instruction in a structured setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of title insurance;**
- (ii) requirements of the insurance laws and administrative rules of Indiana;**
- (iii) principles of title insurance, including underwriting and escrow issues; and**
- (iv) principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).**

(3) Instruction provided in a structured setting must be provided only by individuals who meet the qualifications established by the commissioner under subsection (b).

(b) The commissioner, after consulting with the insurance producer

education and continuing education advisory council, shall adopt rules under IC 4-22-2 prescribing the criteria that a person must meet to render instruction in a certified prelicensing course of study.

(c) The commissioner shall adopt rules under IC 4-22-2 prescribing the subject matter that an insurance producer program of study must cover to qualify for certification as a certified prelicensing course of study under this section.

(d) The commissioner may make recommendations that the commissioner considers necessary for improvements in course materials.

(e) The commissioner shall designate a program of study that meets the requirements of this section as a certified prelicensing course of study for purposes of IC 27-1-15.6-6.

(f) The commissioner may, after notice and opportunity for a hearing, withdraw the certification of a course of study that does not maintain reasonable standards, as determined by the commissioner for the protection of the public.

(g) Current course materials for a prelicensing course of study that is certified under this section must be submitted to the commissioner upon request, but not less frequently than once every three (3) years.

SECTION 27. IC 27-1-15.7-6, AS ADDED BY P.L.132-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) As used in this section, "council" refers to the insurance producer education and continuing education advisory council created under subsection (b).

(b) The insurance producer education and continuing education advisory council is created within the department. The council consists of the commissioner and ~~twelve (12)~~ **thirteen (13)** members appointed by the governor as follows:

(1) Two (2) members recommended by the Professional Insurance Agents of Indiana.

(2) Two (2) members recommended by the Independent Insurance Agents of Indiana.

(3) Two (2) members recommended by the Indiana Association of Insurance and Financial Advisors.

(4) Two (2) representatives of direct writing or exclusive producer's insurance companies.

(5) One (1) representative of the Association of Life Insurance

Companies.

(6) One (1) member recommended by the Insurance Institute of Indiana.

(7) One (1) member recommended by the Indiana Land Title Association.

(8) Two (2) other individuals.

(c) Members of the council serve for a term of three (3) years. Members may not serve more than two (2) consecutive terms.

(d) Before making appointments to the council, the governor must:

(1) solicit; and

(2) select appointees to the council from;

nominations made by organizations and associations that represent individuals and corporations selling insurance in Indiana.

(e) The council shall meet at least semiannually.

(f) A member of the council is entitled to the minimum salary per diem provided under IC 4-10-11-2.1(b). A member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the state department of administration and approved by the state budget agency.

(g) The council shall review and make recommendations to the commissioner with respect to course materials, curriculum, and credentials of instructors of each prelicensing course of study for which certification by the commissioner is sought under section 5 of this chapter and shall make recommendations to the commissioner with respect to educational requirements for insurance producers.

(h) A member of the council or designee of the commissioner shall be permitted access to any classroom while instruction is in progress to monitor the classroom instruction.

(i) The council shall make recommendations to the commissioner concerning the following:

(1) Continuing education courses for which the approval of the commissioner is sought under section 4 of this chapter.

(2) Rules proposed for adoption by the commissioner that would affect continuing education.

SECTION 28. [EFFECTIVE JULY 1, 2004] (a) IC 27-1-15.7-2, as amended by this act, applies only to a limited lines producer with a title qualification who renews the limited lines producer's license

issued under IC 27-1-15.6 after December 31, 2005.

(b) IC 27-1-15.7-5, as amended by this act, does not apply to an insurance producer program of study until January 1, 2005.

(c) This SECTION expires July 1, 2010.

SECTION 29. IC 28-1-5-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16. With respect to a residential real property financing or refinancing, a corporation shall comply with IC 6-1.1-12-43.**

SECTION 30. IC 28-5-1-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26. With respect to a residential real property financing or refinancing, an industrial loan and investment company shall comply with IC 6-1.1-12-43.**

SECTION 31. IC 28-6.1-6-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25. With respect to a residential real property financing or refinancing, a savings bank shall comply with IC 6-1.1-12-43.**

SECTION 32. IC 28-7-1-38 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 38. With respect to a residential real property financing or refinancing, a credit union shall comply with IC 6-1.1-12-43.**

SECTION 33. IC 34-30-2-16.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16.6. IC 6-1.1-12-43 (Concerning a closing agent's failure to provide a form concerning property tax benefits).**

SECTION 34. IC 36-4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) Municipalities are classified according to their status and population as follows:**

STATUS AND POPULATION	CLASS
Cities of 250,000 600,000 or more	First class cities
Cities of 35,000 to 249,999 599,999	Second class cities
Cities of less than 35,000	Third class cities
Other municipalities of any	

population

Towns

(b) Except as provided in subsection (c), a city that attains a population of thirty-five thousand (35,000) remains a second class city even though its population decreases to less than thirty-five thousand (35,000) at the next federal decennial census.

(c) The legislative body of a city to which subsection (b) applies may, by ordinance, adopt third class city status.

SECTION 35. IC 36-7-31.3-8, AS AMENDED BY P.L.178-2002, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) ~~Except as provided in subsection (d);~~ A designating body may designate as part of a professional sports and convention development area any facility that is:

(1) owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used by a professional sports franchise for practice or competitive sporting events; or

(2) owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used as one (1) of the following:

(A) A facility used principally for convention or tourism related events serving national or regional markets.

(B) An airport.

(C) A museum.

(D) A zoo.

(E) A facility used for public attractions of national significance.

(F) A performing arts venue.

(G) A county courthouse registered on the National Register of Historic Places.

A facility may not include a private golf course or related improvements. The tax area may include only facilities described in this section and any parcel of land on which a facility is located. An area may contain noncontiguous tracts of land within the city, county, or school corporation.

(b) Except for a tax area that is located in a city having a population of:

(1) more than one hundred fifty thousand (150,000) but less than

five hundred thousand (500,000); or

(2) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

a tax area must include at least one (1) facility described in subsection (a)(1).

(c) Except as provided in subsection (d), a tax area may contain other facilities not owned by the designating body if:

(1) the facility is owned by a city, the county, a school corporation, or a board established under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11; and

(2) an agreement exists between the designating body and the owner of the facility specifying the distribution and uses of the covered taxes to be allocated under this chapter.

~~(d) In a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), the designating body may designate only one (1) facility as part of a tax area. The facility designated as part of the tax area may not be a facility described in subsection (a)(1).~~

SECTION 36. IC 36-7-31.3-9, AS AMENDED BY P.L.178-2002, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A tax area must be initially established by resolution:

(1) except as provided in subdivision (2) before July 1, 1999; or

~~(2) in the case of a second class city, before July 1, 2003;~~
January 1, 2005:

(A) in the case of a second class city; or

(B) the city of Marion;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. A tax area may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. Only one (1) tax area may be created in each county.

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

(1) Except for a tax area in a city having a population of:

(A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.

(3) For a tax area in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 37. IC 36-7-31.3-19, AS AMENDED BY P.L.178-2002, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. The resolution establishing the tax area must designate the use of the funds. The funds are to be used only for the following:

(1) Except in a tax area in a city having a population of:

(A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used by a professional sports franchise for practice or competitive sporting events. In a tax area to which this subdivision applies, funds may also be used for a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a)(2) of this chapter.

(2) In a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a) of this chapter.

(3) In a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section **8(a)(1) or 8(a)(2)** of this chapter.

(4) The financing or refinancing of a capital improvement described in subdivision (1), (2), or (3) or the payment of lease payments for a capital improvement described in subdivision (1), (2), or (3).

SECTION 38. [EFFECTIVE UPON PASSAGE] (a) Except as provided in subsection (b), IC 6-1.1-22-8, as amended by this act, applies only to statements prepared and mailed for property taxes and special assessments first due and payable after December 31, 2004.

(b) IC 6-1.1-22-8, as amended by this act, applies to statements prepared and mailed for property taxes and special assessments first due and payable in a county after December 31, 2003, if that date is specified in an ordinance adopted by the county under IC 6-1.1-22-8(d), as amended by this act.

SECTION 39. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the property tax replacement study commission established by subsection (b).

(b) The property tax replacement study commission is established.

(c) The commission consists of twenty-four (24) members who are appointed as follows:

(1) Twelve (12) members appointed by the president pro tempore of the senate as follows:

- (A) One (1) member representing manufacturing.**
- (B) One (1) member representing small business.**
- (C) One (1) member representing farmers.**
- (D) One (1) member representing home builders.**
- (E) One (1) member representing realtors.**
- (F) One (1) member who is a member of a city fiscal body.**
- (G) One (1) member who is a mayor.**
- (H) One (1) member who is a township trustee.**
- (I) Two (2) members of the senate, not more than one (1) of whom may be affiliated with the same political party.**
- (J) Two (2) members, without regard to representation or affiliation.**

(2) Twelve (12) members appointed by the speaker of the house of representatives as follows:

- (A) One (1) member representing business.**
- (B) One (1) member representing labor.**
- (C) One (1) member representing senior citizens.**
- (D) One (1) member representing professional educators.**
- (E) One (1) member representing banking.**
- (F) One (1) member who is a parent of a child enrolled in kindergarten through grade 12.**
- (G) One (1) member who is a school board member.**
- (H) One (1) member who is a member of a county fiscal body.**
- (I) Two (2) members of the house of representatives, not more than one (1) of whom may be affiliated with the same political party.**
- (J) Two (2) members, without regard to representation or affiliation.**

Not more than twelve (12) members of the commission may be

from the same political party.

(d) Except for the members appointed under subsection (c)(1)(I) and (c)(2)(I), the members appointed under subsection (c):

- (1) may not be members of the general assembly;
- (2) must own property subject to assessment under IC 6-1.1; and
- (3) have knowledge and experience in the areas of taxation and government finance or school finance.

Each member must be appointed not later than thirty (30) days after the effective date of this act.

(e) The president pro tempore of the senate and the speaker of the house of representatives shall each appoint a cochairperson of the commission.

(f) The commission shall study the following proposals:

- (1) Eliminating approximately fifty percent (50%) of net property tax levies.
- (2) Eliminating approximately seventy-five percent (75%) of net property tax levies.
- (3) Eliminating approximately one hundred percent (100%) of net property tax levies.

The study required under this subsection must identify revenue sources capable of replacing property taxes and providing sufficient revenue to maintain essential government services.

(g) The commission is authorized to meet throughout the year at the call of the cochairpersons. The cochairpersons must call the first meeting of the commission not later than forty-five (45) days after the effective date of this act. The commission shall submit status reports concerning the commission's activities to the legislative council during June and September of 2004.

(h) Before December 1, 2004, the commission shall submit to the legislative council an executive summary of each of the possible alternatives for achieving the property tax elimination proposals described in subsection (f). As soon as possible after submission of the executive summary, the commission shall supplement the executive summary with a final report to the legislative council covering the following matters:

- (1) The commission's schedule of meetings and the public testimony received at those meetings.
- (2) The commission's findings and recommendations,

including any recommendations for statutory changes.

(3) A fiscal analysis of the cost to the state, units of local government, and school corporations to implement:

(A) the alternatives for property tax elimination presented in the commission's executive summary; and

(B) the commission's recommendations.

(i) Except as otherwise provided in this SECTION, the commission shall operate under the rules and procedures of the legislative council.

(j) The affirmative votes of at least thirteen (13) members of the commission are required for the commission to take action on any measure.

(k) Members of the commission are entitled to per diem and travel allowances in the same amounts as the legislative council provides for members of interim study committees.

(l) The legislative services agency shall provide staff support for the commission as directed by a subcommittee established by the legislative council.

(m) The status reports, executive summary, and final report required by this SECTION must be in an electronic format under IC 5-14-6.

(n) This SECTION expires January 1, 2005.

SECTION 40. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the local government efficiency and financing study commission established by this SECTION.

(b) As used in this SECTION, "municipal corporation" means a county, city, town, township, library district, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or other separate local governmental entity that may sue and be sued.

(c) There is established the local government efficiency and financing study commission. The commission shall study the following:

(1) Local government financing, structure, and methods of providing necessary services to the public to determine the most appropriate and efficient means of providing services.

(2) Merger and consolidation of municipal corporations and

the sharing of services among municipal corporations to improve the efficiency of local government.

(3) Creation of local charter governments and the restructuring of municipal corporations, including a review of Senate Bill 225-2004, which proposed allowing local governments to establish charter governments.

(4) The efforts of Fort Wayne and Allen County to restructure municipal and county government.

(5) The ongoing study conducted by Vanderburgh County concerning the restructuring of local government.

(6) The efforts of other states to consolidate local government.

(7) Any other issue as determined by the commission.

(d) The commission consists of the following twenty-three (23) members:

(1) Five (5) members appointed by the governor as follows:

(A) One (1) member who is the mayor of a third class city.

(B) One (1) member representing business.

(C) One (1) member representing labor.

(D) One (1) member who is an economic development professional.

(E) One (1) member who is a public safety employee of a second class city.

(2) Four (4) members who are members of the senate, appointed by the president pro tempore of the senate. Not more than two (2) members may be of the same political party.

(3) Four (4) members who are members of the house of representatives, appointed by the speaker of the house of representatives. Not more than two (2) members may be of the same political party.

(4) Ten (10) members as follows:

(A) One (1) member who is a county commissioner appointed by the president pro tempore of the senate.

(B) One (1) member who is the mayor of a second class city appointed by the speaker of the house of representatives.

(C) One (1) member who is a member of a city council of a second class city appointed by the president pro tempore of the senate.

(D) One (1) member who is a member of a county council

appointed by the speaker of the house of representatives.

(E) Two (2) members who are township trustees. One (1) member shall be appointed by the president pro tempore of the senate. One (1) member shall be appointed by the speaker of the house of representatives. The member appointed by the speaker of the house of representatives must be a trustee assessor.

(F) One (1) member, appointed by the speaker of the house of representatives, who is a member of a town legislative body.

(G) One (1) member, appointed by the president pro tempore of the senate, who is:

(i) an elected or appointed and a qualified township assessor; and

(ii) not a township trustee.

(H) One (1) member, appointed by the speaker of the house, who is a county assessor.

(I) One (1) member, appointed by the president pro tem of the senate, who is a member of a city council of a third class city.

(e) Not more than five (5) members appointed under subsection (d)(4) may be of the same political party.

(f) After the effective date of this act:

(1) the president pro tempore of the senate shall appoint the first chairperson of the commission from among the members of the commission who are legislators, for a term that expires December 1, 2004; and

(2) the speaker of the house of representatives shall appoint the first vice chairperson of the commission from among the members of the commission who are legislators, for a term that expires December 1, 2004.

(g) After November 30, 2004:

(1) the speaker of the house of representatives shall appoint the second commission chairperson from among the legislative members of the commission, for a term that expires December 1, 2005; and

(2) the president pro tempore of the senate shall appoint the second commission vice chairperson from among the legislative members of the commission, for a term that expires

December 1, 2005.

(h) If a member of the commission who holds public office ceases to hold the public office that the member held when appointed to the commission, the member vacates the member's seat on the commission.

(i) The commission shall operate under the policies governing study committees adopted by the legislative council.

(j) An affirmative vote of a majority of the voting members appointed to the commission is required for the commission to take action on any measure, including final reports.

(k) The commission shall annually submit a final report to the legislative council of the commission's recommendations and findings not later than December 1. The report to the legislative council must be in an electronic format under IC 5-14-6.

(l) This SECTION expires December 1, 2005.

SECTION 41. [EFFECTIVE UPON PASSAGE] The general assembly finds that the city of Marion is subject to special circumstances that justify special legislation to allow the city of Marion to establish a tax area under IC 36-7-31.3-9, as amended by this act, before January 1, 2005.

SECTION 42. An emergency is declared for this act.

P.L.65-2004

[H.1062. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 33-1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Subject to subsection (b), if an indigent person: ~~desiring~~

(1) desires to appeal to the supreme court or the court of appeals from the decision of ~~any circuit a trial court or criminal court~~ in

a criminal ~~cases~~; **case**; and

(2) does not ~~having~~ **have** sufficient means to procure the ~~longhand~~ **typed or printed** manuscript or transcript of the evidence taken in ~~shorthand~~; by the ~~order or permission of any~~ court **reporter**;

the court shall direct the ~~shorthand~~ **court** reporter to transcribe the ~~shorthand~~ notes of evidence into ~~longhand~~; a **typed or printed manuscript or transcript** as soon as practicable and deliver the ~~same~~ **manuscript or transcript** to the indigent person. ~~However~~

(b) Notwithstanding subsection (a):

(1) the court must be satisfied that the indigent person ~~has not~~ **lacks** sufficient means to pay the **court** reporter for making the ~~longhand~~ manuscript or transcript of evidence; and

(2) the reporter may charge ~~such~~ **the** compensation ~~as is~~ allowed by law in ~~such~~ cases for making and furnishing a ~~longhand~~ manuscript ~~which service of or transcript~~. The reporter shall be paid by the court out of the proper county treasury.

SECTION 2. IC 33-2.1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a) Subject to section 3 of this chapter**, the commission on judicial qualifications created by Article 7, Section 9 of the Constitution of **the State of Indiana** ~~shall be~~ **is** the commission on judicial qualifications for judges of ~~superior and probate~~ **trial** courts. ~~in certain counties as set forth in section 3 of this chapter. and~~ The members of the commission on judicial qualifications for the court of appeals and ~~the~~ supreme court ~~shall serve as~~ **are** the members of the commission on judicial qualifications for judges of ~~superior and probate~~ **the trial** courts.

(b) The definitions to be used in the operation of the commission on judicial qualifications **for trial courts** shall be the same as those definitions used for the commission on judicial qualifications for the supreme court and court of appeals. ~~Provided that,~~ **However**, the term "judge" ~~shall mean~~ **means** a judge of a ~~superior or probate~~ **trial** court.

SECTION 3. IC 33-2.1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** The commission on judicial qualifications ~~created pursuant to~~ **described in** section 2 of this chapter shall exercise disciplinary jurisdiction over judges of ~~superior and probate~~ **trial** courts. ~~Provided That,~~

(b) In ~~any a~~ county of this state ~~where in which~~ a commission on

judicial qualifications ~~was in operation by virtue of law operated~~ before July 26, 1973, the **county** commission on judicial qualifications ~~shall cease to~~ **may not** exercise disciplinary jurisdiction ~~concerning over the county courts, of any such county and such jurisdiction shall be exercised by the commission on judicial qualifications created pursuant to section 2 of this chapter. Provided However That; wherever described in Article 7, Section 9 of the Constitution of the State of Indiana shall exercise disciplinary jurisdiction. However, if the law creating a county commission on judicial qualifications in any a county of this state before July 26, 1973, precluded judges subject to its disciplinary jurisdiction from participating in political activities due to the fact that said because the judges are selected by a merit selection system, said the judges shall continue to be are precluded from such participation as if such activity were grounds for removal pursuant to this chapter; and Provided Further That; the participating in political activities.~~

(c) **The operation and function of a judicial nominating commissions in operation commission operating in any a county of this state by virtue of law before July 26, 1973, shall is not be in any way affected in their operation or function: by this chapter.**

SECTION 4. IC 33-11.6-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Each division of the small claims court ~~shall must~~ be a full-time division or a part-time division as ~~the individual determined by the township boards shall determine board~~ following the a hearing ~~provided for in conducted under~~ section 3 of this chapter.

SECTION 5. IC 33-11.6-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. ~~In the year 1975; A hearing was must be conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public on the question of concerning:~~

- (1) whether a small claims court division should be established or **abolished** in the township, ~~in each if the township with has~~ a population of less than fifteen thousand (15,000) persons; and
- (2) whether the **small claims court** division should be full time or part time;
- (3) the location of the **small claims court** division courtroom and offices; and

(4) other relevant matters.

SECTION 6. IC 33-11.6-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. **Within Not more than two (2) weeks following after a hearing is held pursuant to under section 3 of this chapter, the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order as to concerning:**

(1) whether a small claims court division shall be established **or abolished** in the township, if ~~such~~ **the** township has a population of less than fifteen thousand (15,000) persons;

(2) whether the **small claims court** division, if any, shall function full time or part time;

(3) the location of the **small claims court** division courtroom and offices ~~pursuant to under~~ IC 33-11.6-8-1; and

(4) other relevant matters.

SECTION 7. IC 33-14-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Prosecuting attorneys and ~~their deputies~~ **deputy prosecuting attorneys shall be entitled to receive for their services** the compensation provided in this chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be paid in the manner prescribed in section 2 of this chapter.

(b) **Upon the allowance of an itemized and verified claim by the board of county commissioners, the auditor of the county shall issue a warrant to the prosecuting attorney or deputy prosecuting attorney who filed the claim to pay any part of the compensation of a the prosecuting attorney or a deputy prosecuting attorney that exceeds the amount if any, that the state is to pay. shall be paid upon a duly itemized and verified claim, filed as required by law, and by warrant issued by the auditor of the county, payable to the respective prosecuting attorney or deputy, upon allowance of such claim by the board of county commissioners. It is a Class B misdemeanor for**

(c) A deputy ~~to prosecuting attorney who~~ knowingly ~~divide such divides~~ compensation with the prosecuting attorney or any other officer or person in connection with ~~such the deputy prosecuting attorney's~~ employment ~~or for the commits a Class B misdemeanor.~~

(d) A prosecuting attorney or any other officer or person ~~to accept~~

~~any such who knowingly accepts the deputy prosecuting attorney's division of compensation described in subsection (c) commits a Class B misdemeanor.~~

~~(b)~~ **(e)** The attorney general ~~of the state~~ shall call at least one (1) and not to ~~exceed more than~~ two (2) conferences of the ~~several~~ prosecuting attorneys each year ~~for the purpose of considering, discussing, and developing to consider, discuss, and develop~~ coordinated plans for the enforcement of the ~~traffic and other laws of this state: Indiana.~~ The ~~date or~~ dates upon which ~~such the~~ conferences ~~shall be~~ **are** held shall be fixed by the attorney general. The expenses necessarily incurred by ~~any such a~~ prosecuting attorney in attending ~~any such a~~ conference **held under this subsection**, including the actual expense of transportation to and from the place where ~~such the~~ conference is held, together with ~~his~~ meals and lodging, shall be paid from the general fund of the county upon the presentation of ~~a duty an~~ itemized and verified claim, filed as required by law, and by warrant issued by the county auditor. If there ~~be is~~ more than one (1) county in any judicial circuit, the expenses of the prosecuting attorneys incurred ~~by virtue of under~~ this subsection shall be paid from the general fund of the respective counties constituting ~~such the~~ circuit in the same proportion that the classification factor of each county bears to the classification factor of the judicial circuit as determined according to law by the state board of accounts.

SECTION 8. IC 33-15-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) ~~For the purpose of facilitating and expediting~~ **To facilitate and expedite** the trial of causes, the judge of each circuit, ~~criminal,~~ superior, probate, and juvenile court of each ~~and every county of this state~~ shall appoint an official reporter. ~~whose duty it shall be, whenever~~

(b) The official reporter shall, when required by such the recorder's appointing judge, to: do the following:

- (1)** Be promptly present in ~~said the appointing judge's court. and to take down in shorthand~~
- (2)** **Record** the oral evidence given in all causes **by any approved method**, including both questions and answers. ~~and to~~
- (3)** Note all rulings of the judge ~~in respect to concerning~~ the admission and rejection of evidence and the objections and exceptions ~~thereto; and to the admission and rejection of~~

evidence.

(4) Write out the instructions of the court in jury trials.

~~(b)~~ (c) In counties in which the circuit or probate court sits as a juvenile court, the official reporter of the circuit court or probate court, as the case may be:

(1) shall report the proceedings of the juvenile court as part of ~~his~~ **the reporter's** duties as reporter of the circuit or probate court; and

(2) except as provided in subsection ~~(c)~~, ~~such reporter shall~~ (d), **may not** receive ~~no~~ additional compensation for ~~his~~ **the reporter's** services for reporting the proceedings of the juvenile court.

~~(c)~~ (d) In counties ~~wherein in which:~~

(1) a circuit court has juvenile jurisdiction; ~~and wherein~~

(2) there is a juvenile referee; and

(3) the circuit judge is the judge of the juvenile court;

the salary of the juvenile court reporter ~~shall be~~ **is** one hundred and twenty-five dollars (\$125) per month ~~which shall be~~ in addition to any compensation ~~such the reporter may receive~~ **receives** as reporter of the circuit court.

~~(d)~~ (e) The official reporters of juvenile courts shall:

(1) be paid the same amount for their services and in the same manner;

(2) have the same duties; and

(3) be subject to the same restrictions;

as is provided for by law for the official reporters of the other courts. However, in a county having a population of more than two hundred fifty thousand (250,000), the judge of the juvenile court may appoint court reporters as necessary for compliance with the law in regard to the reporting of cases and facilitating and expediting the trial of causes, each of whom ~~shall be entitled to~~ receive a salary of ~~not less than at least~~ three hundred dollars (\$300) per month.

SECTION 9. IC 33-15-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~Whenever, in any cause, such~~ (a) **If requested to do so, an official** reporter shall ~~be requested to do so; he shall~~ furnish to either party **in a case** a transcript of all or any part of ~~said the~~ proceedings required by ~~him the reporter~~ to be taken or noted, including all documentary evidence. ~~and it~~

(b) An official reporter shall be his duty to furnish the same written in a plain legible longhand or typewriting a typewritten or printed transcript described in subsection (a) as soon as practicable after being requested to do so. as practicable; and he

(c) The reporter shall certify that it the transcript contains all the evidence given in the cause. Provided; That case.

(d) The reporter:

(1) may require payment for such a transcript furnished under this section; or

(2) may require that the same payment be satisfactorily secured; before he the reporter proceeds to do the required work. required of him.

SECTION 10. IC 33-19-6.5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.5. (a) A payment made under this chapter does not finally discharge a person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit.**

(b) The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a credit card service fee equal to the vendor transaction charge or discount fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

SECTION 11. IC 35-33-8-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 10. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-37-6.**

SECTION 12. IC 35-33-9-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 8. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit**

card shall pay the credit card service fee under IC 33-37-6.

SECTION 13. IC 33-34-1-6, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. A division of the small claims court must be a full-time division or a part-time division as determined by the individual township boards following ~~the a hearing provided for in~~ **conducted under** section 7 of this chapter.

SECTION 14. IC 33-34-1-7, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~In 1975, A hearing was~~ **must be** conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public ~~on the question of concerning:~~

- (1) whether a small claims court division should be established **or abolished** in the township, ~~in each if the township with~~ **has** a population of less than fifteen thousand (15,000) persons;
- (2) whether the **small claims court** division should be full time or part time;
- (3) the location of the **small claims court** division courtroom and offices; and
- (4) other relevant matters.

SECTION 15. IC 33-34-1-9, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. Not more than two (2) weeks ~~following after~~ **held is conducted** under section 7 of this chapter, the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order ~~as to~~ **concerning:**

- (1) whether a small claims court division shall be established **or abolished** in the township if the township has a population of less than fifteen thousand (15,000) persons;
- (2) whether the **small claims court** division, if any, shall function full time or part time;
- (3) the location of the **small claims court** division courtroom and offices under IC 33-34-6-1; and
- (4) other relevant matters.

SECTION 16. IC 33-37-6-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A payment made under this chapter does not

finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit.

(b) The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk ~~may or shall~~ **shall** collect a credit card service fee **equal to the vendor transaction charge or discount fee** from the person using the bank or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

SECTION 17. IC 33-38-14-8, AS ADDED BY SEA 263-2004, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **Subject to section 9 of this chapter**, the commission is the commission on judicial qualifications for judges of **superior and probate trial courts. in the counties described in section 9 of this chapter**. The members of the commission on judicial qualifications for the court of appeals and the supreme court are the members of the commission on judicial qualifications for judges of the **superior and probate trial courts**.

SECTION 18. IC 33-38-14-9, AS ADDED BY SEA 263-2004, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The commission shall exercise disciplinary jurisdiction over judges **of trial courts**.

(b) In a county in which a commission on judicial qualifications operated by virtue of law before July 26, 1973, the county commission on judicial qualifications ceases to exercise disciplinary jurisdiction over the county courts and the commission shall exercise disciplinary jurisdiction. However, if the law creating a county commission on judicial qualifications in a county before July 26, 1973, precluded judges subject to its disciplinary jurisdiction from participating in political activities because the judges are selected by a merit system, the judges are precluded from participating in political activities.

(c) The operation and function of a judicial nominating commission operating in a county by virtue of law before July 26, 1973, is not affected by this chapter.

SECTION 19. IC 33-39-6-1, AS ADDED BY SEA 263-2004,

SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Prosecuting attorneys and deputy prosecuting attorneys are entitled to receive the compensation provided in this chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be paid in the manner prescribed in section 2 of this chapter.

(b) Upon the allowance of an itemized and verified claim by the board of county commissioners, the auditor of the county shall issue a warrant to a prosecuting attorney or deputy prosecuting attorney who filed the claim to pay any part of the compensation of a prosecuting attorney or a deputy prosecuting attorney that exceeds the amount that the state is to pay.

(c) A deputy prosecuting attorney who knowingly divides compensation with the prosecuting attorney or any other officer or person in connection with employment commits a Class B misdemeanor.

(d) A prosecuting attorney or any other officer or person who **knowingly** accepts any division of compensation described in subsection (c) commits a Class B misdemeanor.

(e) The attorney general shall call at least one (1) and not more than two (2) conferences of the prosecuting attorneys, each year, to consider, discuss, and develop coordinated plans for the enforcement of the laws of Indiana. The date or dates upon which the conferences are held shall be fixed by the attorney general. The expenses necessarily incurred by a prosecuting attorney in attending a conference, including the actual expense of transportation to and from the place where the conference is held, together with meals and lodging, shall be paid from the general fund of the county upon the presentation of an itemized and verified claim, filed as required by law, and by warrant issued by the county auditor. If there is more than one (1) county in any judicial circuit, the expenses of the prosecuting attorneys incurred by virtue of this subsection shall be paid from the general fund of the respective counties constituting the circuit in the same proportion that the classification factor of each county bears to the classification factor of the judicial circuit as determined according to law by the state board of accounts.

SECTION 20. IC 33-40-8-5, AS ADDED BY SEA 263-2004,

SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. **(a) Subject to subsection (b), if an indigent person: ~~desiring~~**

(1) desires to appeal to the supreme court or the court of appeals the decision of a ~~circuit court or criminal trial~~ court in a criminal ~~cases, case;~~ and

(2) does not ~~having~~ **have** sufficient means to procure the ~~longhand typed or printed~~ manuscript or transcript of the evidence taken in ~~shorthand;~~ by the ~~order or permission of any~~ court **reporter;**

the court shall direct the ~~shorthand~~ court reporter to transcribe the ~~shorthand~~ notes of evidence into ~~longhand;~~ **a typed or printed manuscript or transcript** as soon as practicable and deliver the ~~longhand~~ manuscript or transcript to the indigent person. ~~However,~~

(b) Notwithstanding subsection (a):

(1) the court must be satisfied that the indigent person lacks sufficient means to pay the **court** reporter for making the ~~longhand~~ manuscript or transcript of evidence; and

(2) the **court** reporter may charge the compensation allowed by law in cases for making and furnishing a ~~longhand~~ manuscript ~~which service of or transcript.~~ The reporter shall be paid by the court from the proper county treasury.

SECTION 21. IC 33-41-1-1, AS ADDED BY SEA 263-2004, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) To facilitate and expedite the trial of causes, the judge of each circuit, ~~criminal;~~ superior, probate, and juvenile court of each county shall appoint an official reporter.

(b) The official reporter shall, when required by the recorder's appointing judge, do the following:

(1) Be promptly present in the appointing judge's court.

(2) Record the oral evidence given in all causes **by any approved method**, including both questions and answers.

(3) Note all rulings of the judge concerning the admission and rejection of evidence and the objections and exceptions to the admission and rejection of evidence.

(4) Write out the instructions of the court in jury trials.

(c) In counties in which the circuit or probate court sits as a juvenile court, the official reporter of the circuit court or probate court, as the

case may be:

- (1) shall report the proceedings of the juvenile court as part of the reporter's duties as reporter of the circuit or probate court; and
- (2) except as provided in subsection (d), may not receive additional compensation for the reporter's services for reporting the proceedings of the juvenile court.

(d) In counties in which a circuit court has juvenile jurisdiction and where there is a juvenile referee and the circuit judge is the judge of the juvenile court, the salary of the juvenile court reporter is one hundred twenty-five dollars (\$125) per month in addition to any compensation the reporter receives as reporter of the circuit court.

(e) The official reporters of juvenile courts shall:

- (1) be paid the same amount for their services and in the same manner;
- (2) have the same duties; and
- (3) be subject to the same restrictions;

as is provided for by law for the official reporters of the other courts. However, in a county having a population of more than two hundred fifty thousand (250,000), the judge of the juvenile court may appoint court reporters as necessary for compliance with the law in regard to the reporting of cases and facilitating and expediting the trial of causes, each of whom is entitled to receive a salary of at least three hundred dollars (\$300) per month.

SECTION 22. IC 33-41-1-5, AS ADDED BY SEA 263-2004, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If requested to do so, an official reporter shall furnish to either party in a cause a transcript of all or any part of the proceedings required by the reporter to be taken or noted, including all documentary evidence.

(b) An official reporter shall furnish ~~the a~~ **a typewritten or printed** transcript described in subsection (a) ~~written in a plain legible longhand or typewriting~~ as soon after being requested to do so as practicable.

(c) The reporter shall certify that the transcript contains all the evidence given in the cause.

(d) The reporter may require payment for a transcript, or that the payment be satisfactorily secured, before the reporter proceeds to do the required work.

SECTION 23. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 33-19-6.5-2; IC 35-33-8-9; IC 35-33-9-7.

P.L.66-2004

[H.1080. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-13.6-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Except as provided **in section 2.7 of this chapter or** in rules adopted under section 2.5 of this chapter, the division shall award a contract to the lowest responsible and responsive contractor.

SECTION 2. IC 4-13.6-6-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.7. (a) As used in this section, "Indiana business" refers to any of the following:**

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.

(4) A business that makes significant capital investments in Indiana.

(5) A business that has a substantial positive economic impact on Indiana.

(b) The department shall consult with the department of commerce in developing criteria for determining whether a business is an Indiana business under subsection (a). The department may consult with the department of commerce to determine whether a particular business meets the requirements

of this section and the criteria developed under this subsection.

(c) There are the following price preferences for a contractor that is an Indiana business:

- (1) Five percent (5%) for a contract expected by the division to be less than five hundred thousand dollars (\$500,000).
- (2) Three percent (3%) for a contract expected by the division to be at least five hundred thousand dollars (\$500,000) but less than one million dollars (\$1,000,000).
- (3) One percent (1%) for a contract expected by the division to be at least one million dollars (\$1,000,000).

(d) The division shall compute a preference under this section in the same manner that a preference is computed under IC 5-22-15.

(e) Notwithstanding subsection (c), the division shall award a contract to the lowest responsive and responsible contractor, regardless of the preference provided in this section, if:

- (1) the contractor is an Indiana contractor; or
- (2) the contractor is a contractor from a state bordering Indiana and the contractor's home state does not provide a preference to the home state's contractors more favorable than is provided by Indiana law to Indiana contractors.

(f) A contractor that wants to claim a preference provided under this section must do all of the following:

- (1) State in the contractor's bid that the contractor claims the preference provided by this section.
- (2) Provide the following information to the department:
 - (A) The location of the contractor's principal place of business. If the contractor claims the preference as an Indiana business described in subsection (a)(1), a statement explaining the reasons the contractor considers the location named as the contractor's principal place of business.
 - (B) The amount of the contractor's total payroll and the amount of the contractor's payroll paid to Indiana residents.
 - (C) The number of the contractor's employees and the number of the contractor's employees who are Indiana residents.
 - (D) If the contractor claims the preference as an Indiana

business described in subsection (a)(4), a description of the capital investments made in Indiana and a statement of the amount of those capital investments.

(E) If the contractor claims the preference as an Indiana business described in subsection (a)(5), a description of the substantial positive economic impact the contractor has on Indiana.

(g) This section expires July 1, 2009.

SECTION 3. IC 5-22-15-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. (a) This section does not apply to the state lottery commission created by IC 4-30-3-1.

(b) As used in this section, "out-of-state business" refers to a business that is not an Indiana business.

(c) A governmental body may adopt rules to give a preference to an Indiana business that submits an offer for a purchase under this article if all of the following apply:

- (1) An out-of-state business submits an offer for the purchase.
- (2) The out-of-state business is a business from a state that gives purchase preferences unfavorable to Indiana businesses.

(d) Rules adopted under subsection (c) must establish criteria for determining the following:

- (1) Whether an offeror qualifies as an Indiana business under the rules.
- (2) When another state's preference is unfavorable to Indiana businesses.
- (3) The method by which the preference for Indiana businesses is to be computed.

(e) Rules adopted under subsection (c) may not give a preference to an Indiana business that is more favorable to the Indiana business than the other state's preference is to the other state's businesses.

(f) Rules adopted under subsection (c) must provide that a contract shall be awarded to the lowest responsive and responsible offeror, regardless of the preference provided under this section, if:

- (1) the offeror is an Indiana business; or**
- (2) the offeror is a business from a state bordering Indiana and the offeror's home state does not provide a preference to the home state's businesses more favorable than is provided**

by Indiana law to Indiana businesses.

SECTION 4. IC 5-22-15-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 20.5. (a) This section applies only to a contract awarded by a state agency.**

(b) As used in this section, "Indiana business" refers to any of the following:

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.

(4) A business that makes significant capital investments in Indiana.

(5) A business that has a substantial positive economic impact on Indiana as defined by criteria developed under subsection (c).

(c) The Indiana department of administration shall consult with the department of commerce in developing criteria for determining whether a business is an Indiana business under subsection (a). The Indiana department of administration may consult with the department of commerce to determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(d) There are the following price preferences for supplies purchased from an Indiana business:

(1) Five percent (5%) for a purchase expected by the state agency to be less than five hundred thousand dollars (\$500,000).

(2) Three percent (3%) for a purchase expected by the state agency to be at least five hundred thousand dollars (\$500,000) but less than one million dollars (\$1,000,000).

(3) One percent (1%) for a purchase expected by the state agency to be at least one million dollars (\$1,000,000).

(e) Notwithstanding subsection (d), a state agency shall award a contract to the lowest responsive and responsible offeror, regardless of the preference provided in this section, if:

(1) the offeror is an Indiana business; or

(2) the offeror is a business from a state bordering Indiana and the business's home state does not provide a preference to the home state's businesses more favorable than is provided by Indiana law to Indiana businesses.

(f) A business that wants to claim a preference provided under this section must do all of the following:

(1) State in the business's bid that the business claims the preference provided by this section.

(2) Provide the following information to the department:

(A) The location of the business's principal place of business. If the business claims the preference as an Indiana business described in subsection (b)(1), a statement explaining the reasons the business considers the location named as the business's principal place of business.

(B) The amount of the business's total payroll and the amount of the business's payroll paid to Indiana residents.

(C) The number of the business's employees and the number of the business's employees who are Indiana residents.

(D) If the business claims the preference as an Indiana business described in subsection (b)(4), a description of the capital investments made in Indiana and a statement of the amount of those capital investments.

(E) If the business claims the preference as an Indiana business described in subsection (b)(5), a description of the substantial positive economic impact the business has on Indiana.

(g) This section expires July 1, 2009.

SECTION 5. IC 5-22-16-4, AS AMENDED BY P.L.254-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) An offeror that is a foreign corporation must be registered with the secretary of state to do business in Indiana in order to be considered responsible.

(b) This subsection applies to a purchase of supplies or services for a state agency under a contract entered into or purchase order sent to an offeror (in the absence of a contract) after June 30, 2003, including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A state agency may not purchase property or services from a person that is delinquent in the

payment of amounts due from the person under IC 6-2.5 (gross retail and use tax) unless the person provides a statement from the department of state revenue that the person's delinquent tax liability:

- (1) has been satisfied; or
- (2) has been released under IC 6-8.1-8-2.

(c) **Except as provided in subsection (d),** the purchasing agent may award a contract to an offeror pending the offeror's registration with the secretary of state. If, in the judgment of the purchasing agent, the offeror has not registered within a reasonable period, the purchasing agent shall cancel the contract. An offeror has no cause of action based on the cancellation of a contract under this subsection.

(d) This subsection applies only to a contract awarded by a state agency. In order to be considered responsible, an offeror that is a business required to register with the secretary of state must have registered with the secretary of state at least forty-five (45) days before the solicitation for the purchase was issued.

SECTION 6. [EFFECTIVE JULY 1, 2004] (a) **As used in this SECTION, "department" refers to the Indiana department of administration established by IC 4-13-1-2.**

(b) **As used in this SECTION, "preference" refers to an Indiana business preference claimed by a contractor or a business under a preference statute.**

(c) **As used in this SECTION, "preference statute" refers to either of the following:**

- (1) IC 4-13.6-6-2.7, as added by this act.
- (2) IC 5-22-15-20.5, as added by this act.

(d) **The department shall compile and organize a report relating to every contractor or business that claims a preference. The report must include the following information:**

- (1) **A summary of the information that contractors and businesses that claim a preference are required to report under the preference statute.**
- (2) **A summary of the number of contracts awarded to Indiana contractors or businesses under a preference statute. The summary must be broken down by each of the criteria in the preference statute for determining whether a business is an Indiana business.**
- (3) **A statement of issues or questions raised, if any, in the**

implementation of the preference statutes.

(4) A statement of recommendations, if any, that the department has for changes to the preference statutes.

(5) Any other information the department considers useful in the evaluation of the preference statutes.

(e) The report described by subsection (c) must:

(1) provide the statistical information broken down by fiscal year with the fiscal year ending:

(A) June 30, 2005, being the first year of the report; and

(B) June 30, 2008, being the last year of the report; and

(2) be submitted to the legislative council not later than September 1, 2008, in an electronic format under IC 5-14-6.

(f) This SECTION expires July 1, 2009.

P.L.67-2004

[H.1098. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-13-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. "Child ~~passenger~~ restraint system" means a device that:

(1) is manufactured for the purpose of protecting children from injury during a motor vehicle accident; and

(2) meets the standards prescribed **and definition contained in** 49 CFR 571.213.

SECTION 2. IC 9-19-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter does not apply to a front seat occupant who meets any of the following conditions:

(1) For medical reasons should not wear safety belts.

(2) Is a child required to be restrained by a child ~~passenger~~

restraint system under IC 9-19-11.

(3) Is traveling in a commercial or a United States Postal Service vehicle that makes frequent stops for the purpose of pickup or delivery of goods or services.

(4) Is a rural carrier of the United States Postal Service and is operating a vehicle while serving a rural postal route.

(5) Is a newspaper motor route carrier or newspaper bundle hauler who stops to make deliveries from a vehicle.

(6) Is a driver examiner designated and appointed under IC 9-14-2-3 and is conducting an examination of an applicant for a permit or license under IC 9-24-10.

SECTION 3. IC 9-19-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter does not apply to a person who operates any of the following vehicles:

(1) A school bus.

(2) A taxicab.

~~(3) A rental vehicle leased for not more than thirty (30) days.~~

~~(4)~~ (3) An ambulance.

~~(5) A vehicle registered in a jurisdiction other than Indiana unless the vehicle is operated in Indiana for more than sixty (60) days in any calendar year.~~

~~(6)~~ (4) A public passenger bus.

~~(7)~~ (5) A motor vehicle having a seating capacity greater than nine (9) individuals that is owned or leased and operated by a religious or not-for-profit youth organization.

~~(8)~~ (6) An antique motor vehicle.

~~(9)~~ (7) A motorcycle.

~~(10)~~ (8) A motor vehicle that is owned or leased by a governmental unit and is being used in the performance of official law enforcement duties.

~~(11)~~ (9) A motor vehicle that is being used in an emergency.

SECTION 4. IC 9-19-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A person who:

(1) holds an Indiana driver's license; and

(2) operates a motor vehicle in which there is a child less than ~~four~~ (4) **eight (8) years of age who is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a child ~~passenger~~ restraint**

system;

commits a Class D infraction, unless it is reasonably determined that the child will not fit in a child passenger restraint system.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

SECTION 5. IC 9-19-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** A person who holds an Indiana driver's license and operates a motor vehicle in which there is a child commits a Class D infraction if:

(1) the child is less than ~~four (4)~~ **eight (8)** years of age and it is reasonably determined that the child will not fit in a child restraint system; and

(2) the child is not properly fastened and restrained **according to the child restraint system manufacturer's instructions** by a:

(A) child restraint system; or

(B) safety belt.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

SECTION 6. IC 9-19-11-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.3. **(a)** This section does not apply to a person who holds an Indiana driver's license.

(b) A person who operates a motor vehicle in which there is a child less than sixteen (16) years of age who is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a:

(1) child restraint system; or

(2) safety belt;

commits a Class D infraction.

(c) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

SECTION 7. IC 9-19-11-3.6 IS ADDED TO THE INDIANA CODE

AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.6. (a) A person who operates a motor vehicle in which there is a child and that is equipped with a safety belt meeting the standards stated in the Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) commits a Class D infraction if:**

- (1) the child is at least eight (8) years of age but less than sixteen (16) years of age; and**
- (2) the child is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a:**

- (A) child restraint system; or**
- (B) safety belt.**

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

SECTION 8. IC 9-19-11-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.7. Notwithstanding sections 2, 3, 3.3, and 3.6 of this chapter, a person may operate a motor vehicle in which there is a child who weighs more than forty (40) pounds and who is properly restrained and fastened by a lap safety belt if:**

- (1) the motor vehicle is not equipped with lap and shoulder safety belts; or**
- (2) not including the operator's seat and the front passenger seat:**

- (A) the motor vehicle is equipped with one (1) or more lap and shoulder safety belts; and**
- (B) all the lap and shoulder safety belts are being used to properly restrain other children who are less than sixteen (16) years of age.**

SECTION 9. IC 9-19-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5. If at a proceeding to enforce section 2 of this chapter the court finds that the person:**

- (1) has violated this chapter; and**
- (2) possesses or has acquired a child ~~passenger~~ restraint system;**
the court shall enter judgment against the person. However,

notwithstanding IC 34-28-5-4, the person is not liable for any costs or monetary judgment if the person has no previous judgments of violation of this chapter against the person.

SECTION 10. IC 9-19-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) If at a proceeding to enforce section 2 of this chapter the court finds that the person:

- (1) has violated this chapter; and
- (2) does not possess or has not acquired a child ~~passenger~~ restraint system;

the court shall enter judgment against the person and shall order the person to provide proof of possession or acquisition within thirty (30) days.

(b) Notwithstanding IC 34-28-5-4, if the person:

- (1) complies with a court order under this section; and
- (2) has no previous judgments of violation of this chapter against the person;

the person is not liable for any costs or a monetary judgment.

SECTION 11. IC 9-19-11-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. (a) The child restraint system account is established within the state general fund to make grants under subsection (d).**

(b) The account consists of the following:

- (1) Funds collected as judgments for violations under this chapter.**
- (2) Appropriations to the account from the general assembly.**
- (3) Grants, gifts, and donations intended for deposit in the account.**
- (4) Interest that accrues from money in the account.**

(c) The account shall be administered by the criminal justice institute.

(d) The criminal justice institute, upon the recommendation of the governor's council on impaired and dangerous driving, shall use money in the account to make grants to private and public organizations to:

- (1) purchase child restraint systems; and**
- (2) distribute the child restraint systems:**
 - (A) without charge; or**

(B) for a minimal charge;

to persons who are not otherwise able to afford to purchase child restraint systems.

The criminal justice institute shall adopt rules under IC 4-22-2 to implement this section.

(e) Money in the account is appropriated continuously to the criminal justice institute for the purposes stated in subsection (a).

(f) The expenses of administering the account shall be paid from money in the account.

(g) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(h) Money in the account at the end of a state fiscal year does not revert to the state general fund.

SECTION 12. IC 9-19-11-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. The bureau may not assess points under the point system for a violation of this chapter.**

SECTION 13. IC 9-19-11-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. A violation of this chapter may not be included in a determination of habitual violator status under IC 9-30-10-4.**

SECTION 14. IC 9-19-10-2.5 IS REPEALED [EFFECTIVE JULY 1, 2005].

P.L.68-2004

[H.1154. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-4.1-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 3. (a) "Class A**

transferee" means a transferee who is:

- (1) a lineal ancestor ~~or of the transferor~~;
- (2) a lineal descendant of the transferor; **or**
- (3) **a stepchild of the transferor.**

(b) "Class B transferee" means a transferee who is a:

- (1) brother or sister of the transferor;
- (2) descendant of a brother or sister of the transferor; or
- (3) spouse, widow, or widower of a child of the transferor.

(c) "Class C transferee" means a transferee, except a surviving spouse, who is neither a Class A nor a Class B transferee.

(d) For purposes of this section, a legally adopted child is to be treated as if ~~he~~ **the child** were the natural child of ~~his~~ **the child's** adopting parent. For purposes of this section, if a relationship of loco parentis has existed for at least ten (10) years and if the relationship began before the child's fifteenth birthday, the child is to be considered the natural child of the loco parentis parent.

(e) **As used in this section, "stepchild" means a child of the transferor's surviving, deceased, or former spouse who is not a child of the transferor.**

SECTION 2. [EFFECTIVE JULY 1, 2004] **IC 6-4.1-1-3, as amended by this act, applies to the estate of an individual who dies after June 30, 2004.**

P.L.69-2004

[H.1171. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-346.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 346.5. "Task force", for purposes of IC 16-41-41, has the meaning set forth in IC 16-41-41-1.**

SECTION 2. IC 16-41-41 IS ADDED TO THE INDIANA CODE

AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 41. Stroke Prevention Task Force

Sec. 1. As used in this chapter, "task force" refers to the stroke prevention task force established by section 2 of this chapter.

Sec. 2. The stroke prevention task force is established.

Sec. 3. (a) The task force consists of fifteen (15) members as follows:

(1) The state health commissioner or the commissioner's designee.

(2) The secretary of family and social services or the secretary's designee.

(3) Two (2) representatives of a stroke support organization.

(4) Four (4) physicians with an unlimited license to practice medicine under IC 25-22.5 and with expertise in stroke, including at least:

(A) one (1) physician;

(B) one (1) neurologist;

(C) one (1) neuroradiologist; and

(D) one (1) emergency care physician who is a member of the American College of Emergency Physicians.

(5) One (1) health care provider who provides rehabilitative services to persons who have had a stroke.

(6) One (1) nurse with a license to practice under IC 25-23.

(7) One (1) representative nominated by the Indiana Health and Hospital Association.

(8) One (1) representative from an emergency medical services organization or provider.

(9) One (1) representative from the Indiana Minority Health Coalition.

(10) One (1) stroke survivor or stroke survivor caregiver.

(11) One (1) recreational therapist who provides services to persons who have had a stroke.

(b) The governor shall appoint the members of the task force designated by subsection (a)(3) through (a)(11). The governor may remove an appointed member for cause.

Sec. 4. Each member of the task force serves a term of four (4) years. A member appointed to fill a vacancy holds office for the remainder of the unexpired term.

Sec. 5. Eight (8) members of the task force constitute a quorum for transacting all business of the task force. The affirmative votes of a majority of the voting members appointed to the council are required for the task force to take action on any measure.

Sec. 6. The governor shall appoint one (1) council member to serve as chair and one (1) council member to serve as vice chair. The chair and vice chair serve a term of one (1) year.

Sec. 7. The task force shall meet at least quarterly.

Sec. 8. The state department shall provide staff for the task force.

Sec. 9. The task force shall do the following:

(1) Complete a statewide comprehensive stroke needs assessment.

(2) Develop and implement a comprehensive statewide public education program on stroke prevention, targeted to high risk populations and to geographic areas where there is a high incidence of stroke.

(3) Recommend and disseminate guidelines on the treatment of stroke patients, including emergency stroke care.

(4) Ensure that the public and health care providers are informed regarding the most effective strategies for stroke prevention.

(5) Advise the state department concerning grant opportunities for providers of emergency medical services and for hospitals to improve care to stroke patients.

(6) Study and issue recommendations on other topics related to stroke care and prevention as determined by the chairperson.

(7) Prepare a report each year on the operation of the task force and provide the report to the following:

(A) The governor.

(B) The commissioner of the state department.

(C) The legislative council. The report under this clause must be in an electronic format under IC 5-14-6.

Sec. 10. The expenses of the task force shall be paid from funds appropriated to the state department.

Sec. 11. This chapter expires July 1, 2008.

P.L.70-2004

[H.1194. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 10-13-3-6, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) As used in this chapter, "criminal justice agency" means any agency or department of any level of government whose principal function is:

- (1) the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders;
- (2) the location of parents with child support obligations under 42 U.S.C. 653;
- (3) the licensing and regulating of riverboat gambling operations;
- or
- (4) the licensing and regulating of pari-mutuel horse racing operations.

(b) The term includes the following:

- (1) The office of the attorney general.
- (2) The Medicaid fraud control unit, for the purpose of investigating offenses involving Medicaid.
- (3) A nongovernmental entity that performs as its principal function the:
 - (A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;
 - (B) location of parents with child support obligations under 42 U.S.C. 653;
 - (C) licensing and regulating of riverboat gambling operations;
 - or
 - (D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of

government.

(4) The division of family and children or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

SECTION 2. IC 12-7-2-28, AS AMENDED BY P.L.34-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28. "Child" means the following:

(1) For purposes of IC 12-13-15, the meaning set forth in IC 12-13-15-1.

(2) For purposes of IC 12-13-15.1, the meaning set forth in IC 12-13-15.1-1.

(3) For purposes of IC 12-17.2 and IC 12-17.4, an individual who is less than eighteen (18) years of age.

~~(3)~~ **(4)** For purposes of IC 12-26, the meaning set forth in IC 31-9-2-13(d).

SECTION 3. IC 12-7-2-76.7, AS ADDED BY P.L.34-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 76.7. **(a)** "Emergency medical services", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-2.

(b) "Emergency medical services", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-2.

SECTION 4. IC 12-7-2-124.5, AS ADDED BY P.L.34-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 124.5. **(a)** "Local child fatality review team", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-3.

(b) "Local child fatality review team", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-3.

SECTION 5. IC 12-7-2-129.5, AS ADDED BY P.L.34-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 129.5. **(a)** "Mental health provider", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-4.

(b) "Mental health provider", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-4.

SECTION 6. IC 12-7-2-186.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 186.5. "Statewide child fatality review committee"**, for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-5.

SECTION 7. IC 12-13-15-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. A local child fatality review team may request that the statewide child fatality review committee make a fatality review of a child from the area served by the local child fatality review team if a majority of the members of a local child fatality review team vote to make the request.**

SECTION 8. IC 12-13-15.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 15.1. Statewide Child Fatality Review Committee

Sec. 1. As used in this chapter, "child" means an individual less than eighteen (18) years of age.

Sec. 2. As used in this chapter, "emergency medical services" means emergency ambulance services or other services, including extrication and rescue services, provided to an individual in need of immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

Sec. 3. As used in this chapter, "local child fatality review team" refers to a county or regional child fatality review team established under IC 12-13-15.

Sec. 4. As used in this chapter, "mental health provider" means any of the following:

- (1) A registered nurse or licensed practical nurse licensed under IC 25-23.**
- (2) A clinical social worker licensed under IC 25-23.6-5.**
- (3) A marriage and family therapist licensed under IC 25-23.6-8.**
- (4) A psychologist licensed under IC 25-33.**
- (5) A school psychologist licensed by the Indiana state board of education.**

Sec. 5. As used in this chapter, "statewide child fatality review committee" refers to the statewide child fatality review committee

established by section 6 of this chapter.

Sec. 6. (a) The statewide child fatality review committee is established for the purpose of reviewing a child's death that is:

- (1) sudden;
- (2) unexpected; or
- (3) unexplained;

if the county where the child died does not have a local child fatality review team or if the local child fatality review team requests a review of the child's death by the statewide committee.

(b) The statewide child fatality review committee may also review the death of a child upon request by an individual.

(c) A request submitted under subsection (b) must set forth:

- (1) the name of the child;
- (2) the age of the child;
- (3) the county where the child died;
- (4) whether a local child fatality review team reviewed the death; and
- (5) the cause of death of the deceased child.

Sec. 7. A child fatality review conducted by the statewide child fatality review committee under this chapter must consist of determining:

- (1) whether similar future deaths could be prevented; and
- (2) agencies or resources that should be involved to adequately prevent future deaths of children.

Sec. 8. The statewide child fatality review committee consists of the following members appointed by the governor:

- (1) a coroner or deputy coroner;
- (2) a representative from:
 - (A) the state department of health established by IC 16-19-1-1;
 - (B) a local health department established under IC 16-20-2; or
 - (C) a multiple county health department established under IC 16-20-3;
- (3) a pediatrician;
- (4) a representative of law enforcement;
- (5) a representative from an emergency medical services provider;
- (6) a director of an office of family and children;

- (7) a representative of a prosecuting attorney;
- (8) a pathologist with forensic experience who is licensed to practice medicine in Indiana;
- (9) a mental health provider;
- (10) a representative of a child abuse prevention program;
- and
- (11) a representative of the department of education.

Sec. 9. (a) The chairperson of the statewide child fatality review committee shall be selected by the governor.

(b) The statewide child fatality review committee shall meet at the call of the chairperson.

(c) The statewide child fatality review committee chairperson shall determine the agenda for each meeting.

Sec. 10. (a) Except as provided in subsection (b), meetings of the statewide child fatality review committee are open to the public.

(b) Except as provided in subsection (d), a meeting of the statewide child fatality review committee that involves:

- (1) confidential records; or
- (2) identifying information regarding the death of a child that is confidential under state or federal law;

shall be held as an executive session.

(c) If a meeting is held as an executive session under subsection (b), each individual who:

- (1) attends the meeting; and
- (2) is not a member of the statewide child fatality review committee;

shall sign a confidentiality statement prepared by the division. The statewide child fatality review committee shall keep all confidentiality statements signed under this subsection.

(d) A majority of the members of the statewide child fatality review committee may vote to disclose any report or part of a report regarding a fatality review to the public if the information is in the general public interest as determined by the statewide child fatality review committee.

Sec. 11. Members of the statewide child fatality review committee and individuals who attend a meeting of the statewide child fatality review team as an invitee of the chairperson:

- (1) may discuss among themselves confidential matters that are before the statewide child fatality review committee;

(2) are bound by all applicable laws regarding the confidentiality of matters reviewed by the statewide child fatality review committee; and

(3) except when acting:

(A) with malice;

(B) in bad faith; or

(C) with gross negligence;

are immune from any civil or criminal liability that might otherwise be imposed as a result of communicating among themselves about confidential matters that are before the statewide child fatality review committee.

Sec. 12. The division shall provide training to the statewide child fatality review committee.

Sec. 13. (a) The division shall collect and document information surrounding the deaths of children reviewed by the statewide child fatality review committee. The division shall develop a data collection form that includes:

(1) identifying and nonidentifying information;

(2) information regarding the circumstances surrounding a death;

(3) factors contributing to a death; and

(4) findings and recommendations.

(b) The data collection form developed under this section must also be provided to:

(1) the appropriate community child protection team established under IC 31-33-3; and

(2) the appropriate:

(A) local health department established under IC 16-20-2;
or

(B) multiple county health department established under IC 16-20-3.

Sec. 14. The affirmative votes of the voting members of a majority of the statewide child fatality review committee are required for the committee to take action on any measure.

Sec. 15. The expenses of the statewide child fatality review committee shall be paid from funds appropriated to the division.

Sec. 16. The testimony of a member of the statewide child fatality review committee is not admissible as evidence concerning an investigation by the statewide child fatality review committee.

SECTION 9. IC 12-14-25.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** Family preservation services may provide:

- (1) comprehensive, coordinated, flexible, and accessible services;
- (2) intervention as early as possible with emphasis on establishing a safe and nurturing environment;
- (3) services to families who have members placed in care settings outside the nuclear family; **and**
- (4) planning options for temporary placement outside the family if it would endanger the child to remain in the home.

(b) Unless authorized by a juvenile court, family preservation services may not include a temporary out-of-home placement if a person who:

- (1) is currently residing in the location designated as the out-of-home placement; or**
- (2) in the reasonable belief of family preservation services is expected to be residing in the location designated as the out-of-home placement during the time the child at imminent risk of placement would be placed in the location;**

has committed an act resulting in a substantiated report of child abuse or neglect or has a juvenile adjudication or a conviction for a felony listed in IC 12-17.4-4-11.

(c) Before placing a child at imminent risk of placement in a temporary out-of-home placement, the county office of family and children shall conduct a criminal history check (as defined in IC 31-9-2-29.7) for each person described in subsection (b)(1) and (b)(2). However, the county office of family and children is not required to conduct a criminal history check under this section if the temporary out-of-home placement is made to an entity or facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 10. IC 31-9-2-29.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 29.7. "Criminal history check", for purposes of IC 31-34 and IC 31-37, means a report consisting of:**

- (1) criminal history data (as defined in IC 10-13-3-5);**
- (2) each substantiated report of child abuse or neglect**

reported in a jurisdiction where the county office of family and children has reason to believe the subject resided; and
(3) each adjudication for a delinquent act described in IC 31-37-1-2 reported in a jurisdiction where the county office of family and children has reason to believe the subject resided.

SECTION 11. IC 31-9-2-58.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 58.5. "Indicated", for purposes of IC 31-33-8-12, means facts obtained during an investigation of suspected child abuse or neglect that:**

(1) provide:

(A) significant indications that a child may be at risk for abuse or neglect; or

(B) evidence that abuse or neglect previously occurred; and

(2) cannot be classified as substantiated or unsubstantiated.

SECTION 12. IC 31-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2. The local child protection service:**

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article; and

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protective services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article I, Section 11 of the

Constitution of the State of Indiana.

SECTION 13. IC 31-33-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. **(a)** Upon completion of an investigation, the local child protection service shall classify reports as substantiated, **indicated**, or unsubstantiated.

(b) Except as provided in subsection (c), a local child protection service shall expunge investigation records one (1) year after a report has been classified as indicated under subsection (a).

(c) If a local child protection service has:

- (1) classified a report under subsection (a) as indicated; and**
- (2) not expunged the report under subsection (b);**

and the subject of the report is the subject of a subsequent report, the one (1) year period in subsection (b) is tolled for one (1) year after the date of the subsequent report.

SECTION 14. IC 31-33-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **(a) Except as provided in section 1.5 of this chapter,** the following are confidential:

- (1) Reports made under this article (or IC 31-6-11 before its repeal).
- (2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:
 - (A) the division of family and children;
 - (B) the county office of family and children; or
 - (C) the local child protection service.

(b) Except as provided in section 1.5 of this chapter, all records held by:

- (1) the division of family and children;**
- (2) a county office of family and children;**
- (3) a local child protection service;**
- (4) a local child fatality review team established under IC 12-13-15; or**
- (5) the statewide child fatality review committee established under IC 12-13-15.1-6;**

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed.

SECTION 15. IC 31-33-18-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.5. **(a) This section applies to**

records held by:

- (1) the division of family and children;
- (2) a county office of family and children;
- (3) a local child protection service;
- (4) a local child fatality review team established under IC 12-13-15; or
- (5) the statewide child fatality review committee established under IC 12-13-15.1-6;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect.

(b) As used in this section, "identifying information" means information that identifies an individual, including an individual's:

- (1) name, address, date of birth, occupation, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;
- (2) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;
- (3) unique electronic identification number, address, or routing code;
- (4) telecommunication identifying information; or
- (5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access.

(c) Unless information in a record is otherwise confidential under state or federal law, a record described in subsection (a) that has been redacted in accordance with this section is not confidential and may be disclosed to any person who requests the record. The person requesting the record may be required to pay the reasonable expenses of copying the record.

(d) When a person requests a record described in subsection (a), the entity having control of the record shall immediately transmit a copy of the record to the court exercising juvenile jurisdiction in the county in which the death of the child occurred. However, if the court requests that the entity having control of a record transmit the original record, the entity shall transmit the original record.

(e) Upon receipt of the record described in subsection (a), the

court shall, within thirty (30) days, redact the record to exclude identifying information of a person or other information not relevant to establishing the facts and circumstances leading to the death of the child. However, the court shall not redact the record to exclude information that relates to an employee of the division of family and children, an employee of a county office of family and children, or an employee of a local child protection service.

(f) The court shall disclose the record redacted in accordance with subsection (e) to any person who requests the record, if the person has paid:

- (1) to the entity having control of the record, the reasonable expenses of copying under IC 5-14-3-8; and
- (2) to the court, the reasonable expenses of copying the record.

(g) The court's determination under subsection (e) that certain identifying information or other information is not relevant to establishing the facts and circumstances leading to the death of a child is not admissible in a criminal proceeding or civil action.

SECTION 16. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other material described in ~~section 1~~ **section 1(a)** of this chapter **and the unredacted reports and other material described in section 1(b) of this chapter** shall be made available only to the following:

- (1) Persons authorized by this article.
- (2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.
- (3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.
- (4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.
- (5) An individual legally authorized to place a child in protective custody if:
 - (A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or

neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody;

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, **for redaction of the record in accordance with section 1.5 of this chapter, or** upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, **except for disclosure of a redacted record in accordance with section 1.5 of this chapter,** access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for the child protective service or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under

IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the division of family and children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 12-13-15-6.

(17) The statewide child fatality review committee established by IC 12-13-15.1-6.

SECTION 17. IC 31-33-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) An individual who

~~(1) knowingly requests, obtains, or seeks to obtain child abuse or neglect information under false pretenses or~~

~~(2) knowingly falsifies child abuse or neglect information or records;~~

commits a Class B misdemeanor.

(b) A person who knowingly or intentionally:

(1) falsifies child abuse or neglect information or records; or

(2) obstructs or interferes with a child abuse investigation, including an investigation conducted by a local child fatality review team or the statewide child fatality review committee;

commits obstruction of a child abuse investigation, a Class A

misdemeanor.

SECTION 18. IC 31-34-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter, the court shall consider placing the child with a suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering any other out-of-home placement.

(b) Before placing a child in need of services with a blood relative or an adoptive relative caretaker, the court may order the division of family and children to:

- (1) complete a home study of the relative's home; and
- (2) provide the court with a placement recommendation.

(c) Except as provided in subsection (e), before placing a child in need of services in an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the court shall order the division of family and children to conduct a criminal history check of each person who is:

- (1) currently residing in the location designated as the out-of-home placement; or**
- (2) in the reasonable belief of the division of family and children, expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.**

(d) Except as provided in subsection (f), a court may not order an out-of-home placement if a person described in subsection (c)(1) or (c)(2) has:

- (1) committed an act resulting in a substantiated report of child abuse or neglect; or**
- (2) been convicted of a felony listed in IC 12-17.4-4-11 or had a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult.**

(e) The court is not required to order the division of family and children to conduct a criminal history check under subsection (c) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(f) A court may order an out-of-home placement if:

- (1) a person described in subsection (c)(1) or (c)(2) has:**
 - (A) committed an act resulting in a substantiated report of child abuse or neglect; or**
 - (B) been convicted or had a juvenile adjudication for:**
 - (i) reckless homicide (IC 35-42-1-5);**
 - (ii) battery (IC 35-42-2-1) as a Class C or D felony;**
 - (iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;**
 - (iv) arson (IC 35-43-1-1) as a Class C or D felony;**
 - (v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;**
 - (vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or**
 - (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and**
- (2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the placement is in the best interest of the child.**

However, a court may not order an out-of-home placement if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(g) In making its written finding under subsection (f), the court shall consider the following:

- (1) The length of time since the person committed the offense, delinquent act, or abuse or neglect.**
- (2) The severity of the offense, delinquent act, or abuse or neglect.**
- (3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.**

SECTION 19. IC 31-34-18-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. **(a)** The predispositional report prepared by a probation officer or caseworker shall include the following information:

- (1) A description of all dispositional options considered in preparing the report.
- (2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.
- (3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker shall conduct a criminal history check for each person who:

- (1) is currently residing in the location designated as the out-of-home placement; or**
- (2) in the reasonable belief of the probation officer or caseworker, is expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.**

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

- (1) the probation officer or caseworker is considering only an out-of-home placement to an entity or facility that:**
 - (A) is not a residence (as defined in IC 3-5-2-42.5); or**
 - (B) is licensed by the state; or**
- (2) placement under this section is undetermined at the time the predispositional report is prepared.**

SECTION 20. IC 31-34-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Except as provided in subsection (d), a court may not enter a dispositional decree under subsection (b) if a person who is:

- (1) currently residing in the location designated as the out-of-home placement; or**
- (2) reasonably expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location;**

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. If a criminal history check has not been conducted before a dispositional decree is entered under this section, the court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check in the manner set forth in IC 31-34-18-6.1.

(b) In addition to the factors under section 6 of this chapter, if the court enters a dispositional decree regarding a child in need of services that includes an out-of-home placement, the court shall consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

(c) The court is not required to order a probation officer or caseworker to conduct a criminal history check under subsection (a) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(d) A court may enter a dispositional decree under subsection (b) if:

- (1)** a person described in subsection (a)(1) or (a)(2) has:
 - (A)** committed an act resulting in a substantiated report of child abuse or neglect; or
 - (B)** been convicted or had a juvenile adjudication for:
 - (i)** reckless homicide (IC 35-42-1-5);
 - (ii)** battery (IC 35-42-2-1) as a Class C or D felony;
 - (iii)** criminal confinement (IC 35-42-3-3) as a Class C or D felony;
 - (iv)** arson (IC 35-43-1-1) as a Class C or D felony;
 - (v)** a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;
 - (vi)** a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or
 - (vii)** a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and the dispositional decree is in the best interest of the child.

However, a court may not enter a dispositional decree if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the conviction, adjudication, or substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 21. IC 31-34-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. Subject to section 1.5 of this chapter, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the probation department or the county office of family and children.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(5) Partially or completely emancipate the child under section 6

of this chapter.

(6) Order:

(A) the child; or

(B) the child's parent, guardian, or custodian;

to receive family services.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 22. IC 31-34-20-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.5. (a) Except as provided in subsection (c), the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) of this chapter or awarding wardship to a county office of family and children that will place the child with a person under section 1(4) of this chapter if a person who is:**

(1) currently residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter; or

(2) reasonably expected to be residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-19-7 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile

adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A court may enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if:

- (1) a person described in subsection (a)(1) or (a)(2) has:
 - (A) committed an act resulting in a substantiated report of child abuse or neglect; or
 - (B) been convicted or had a juvenile adjudication for:
 - (i) reckless homicide (IC 35-42-1-5);
 - (ii) battery (IC 35-42-2-1) as a Class C or D felony;
 - (iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;
 - (iv) arson (IC 35-43-1-1) as a Class C or D felony;
 - (v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;
 - (vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or
 - (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and
- (2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the dispositional decree placing a child in another home or awarding wardship to a county office of family and children is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(d) In making its written finding under subsection (c), the court shall consider the following:

- (1) The length of time since the person committed the offense,

delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 23. IC 31-34-21-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. (a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D) or (c)(1)(E) if a person who is:

(1) currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E); or

(2) reasonably expected to be residing with a person described in subsection (c)(1)(D) or (c)(1)(E) during the time the child would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, IC 31-34-19-7, or IC 31-34-20-1.5 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care

and custody of the child that may include any of the following arrangements that the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding by the agency or appropriate person for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

- (i) an adult sibling;
- (ii) a grandparent;
- (iii) an aunt;
- (iv) an uncle; or
- (v) ~~other~~ **another** relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

- (i) Care, custody, and control of the child.
- (ii) Decision making concerning the child's upbringing.

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

- (d) A juvenile court may approve a permanency plan if:**
- (1) a person described in subsection (a)(1) or (a)(2) has:**
 - (A) committed an act resulting in a substantiated report of child abuse or neglect; or**
 - (B) been convicted or had a juvenile adjudication for:**
 - (i) reckless homicide (IC 35-42-1-5);**
 - (ii) battery (IC 35-42-2-1) as a Class C or D felony;**
 - (iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;**
 - (iv) arson (IC 35-43-1-1) as a Class C or D felony;**
 - (v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;**
 - (vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or**
 - (vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and**
 - (2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of the permanency plan is in the best interest of the child.**

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

- (1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.**
- (2) The severity of the offense, delinquent act, or abuse or neglect.**
- (3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.**

SECTION 24. IC 31-37-17-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. (a) The

predispositional report prepared by a probation officer or caseworker shall include the following information:

- (1) A description of all dispositional options considered in preparing the report.
- (2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.
- (3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker must conduct a criminal history check for each person who:

- (1) is currently residing in the location designated as the out-of-home placement; or**
- (2) in the reasonable belief of the probation officer or caseworker, is expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.**

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

- (1) the probation officer or caseworker is considering only an out-of-home placement to an entity or a facility that:**
 - (A) is not a residence (as defined in IC 3-5-2-42.5); or**
 - (B) is licensed by the state; or**
- (2) placement under this section is undetermined at the time the predispositional report is prepared.**

SECTION 25. IC 31-37-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section 6.5 of this chapter**, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

- (1) Order supervision of the child by the probation department or the county office of family and children.

- (2) Order the child to receive outpatient treatment:
 - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
 - (B) from an individual practitioner.
- (3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.
- (4) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.
- (5) Partially or completely emancipate the child under section 27 of this chapter.
- (6) Order:
 - (A) the child; or
 - (B) the child's parent, guardian, or custodian;to receive family services.
- (7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 26. IC 31-37-19-6, AS AMENDED BY P.L.1-2003, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) Except as provided in section 10 of this chapter **and subject to section 6.5 of this chapter**, the juvenile court may:

- (1) enter any dispositional decree specified in section 5 of this chapter; and
- (2) take any of the following actions:
 - (A) Award wardship to:
 - (i) the department of correction for housing in a correctional facility for children; or
 - (ii) a community based correctional facility for children.Wardship under this subdivision does not include the right to consent to the child's adoption.
 - (B) If the child is less than seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:
 - (i) ninety (90) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(C) If the child is at least seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) one hundred twenty (120) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(D) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(E) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(F) Place the child in a secure private facility for children licensed under the laws of a state. Placement under this subdivision includes authorization to control and discipline the child.

(G) Order a person who is a respondent in a proceeding under IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from direct or indirect contact with the child.

SECTION 27. IC 31-37-19-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. (a) Except as provided in subsection (c), the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if a person who is:**

(1) currently residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter; or

(2) reasonably expected to be residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-37-17-6.1 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) The juvenile court may enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if:

- (1) a person described in subsection (a)(1) or (a)(2) has:**
 - (A) committed an act resulting in a substantiated report of child abuse or neglect; or**
 - (B) been convicted or had a juvenile adjudication for:**
 - (i) reckless homicide (IC 35-42-1-5);**
 - (ii) battery (IC 35-42-2-1) as a Class C or D felony;**
 - (iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;**
 - (iv) arson (IC 35-43-1-1) as a Class C or D felony;**
 - (v) a felony involving a weapon under IC 35-47 or**

IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that entry of a dispositional decree placing the child in another home is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(d) In making its written finding under subsection (c), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 28. IC 31-37-19-17.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 17.4. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be a sex crime listed in IC 35-38-1-7.1(e).**

(b) The juvenile court may, in addition to any other order or decree the court makes under this chapter, order:

(1) the child; and

(2) the child's parent or guardian;

to receive psychological counseling as directed by the court.

SECTION 29. IC 31-39-2-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 13.5. The records of the juvenile court are available without a court order to an employee of the division of family and children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:**

- (1) child at imminent risk of placement;**
- (2) child in need of services; or**
- (3) delinquent child.**

SECTION 30. IC 34-30-2-44.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 44.1. IC 12-13-15.1-11 (Concerning members of the statewide child fatality review committee and persons who attend a meeting of the statewide child fatality review committee as invitees of the chairperson).**

P.L.71-2004

[H.1203. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 14-8-2-117.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 117.3. "Governmental entity", for the purposes of IC 14-22-10-2, **and** IC 14-22-10-2.5, **and** **IC 14-34-19-15**, has the meaning set forth in IC 14-22-10-2(a).

SECTION 2. IC 14-25-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) The general assembly finds that a diversion of water out of the Great Lakes will impair or destroy the Great Lakes. The general assembly further finds

that the prohibition of a diversion of water from the Great Lakes is consistent with the mandate of the Preamble to and Article 14, Section 1 of the Constitution of the State of Indiana, the United States Constitution, and the federal legislation according to which Indiana was granted statehood.

(b) Water may not be diverted from that part of the Great Lakes drainage basin within Indiana ~~for use in a state outside the basin~~; unless the diversion is approved by the governor of each Great Lakes state **under 42 U.S.C. 1962d-20 (Water Resources Development Act).**

(c) The commission shall adopt rules necessary to implement this section.

SECTION 3. IC 14-25.5-4-6, AS ADDED BY P.L.145-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. **Except as provided in IC 14-26-7-8, IC 14-27-6-52, IC 14-29-1-3, IC 14-29-7-25, and IC 14-29-8-5,** a person who knowingly violates **an article enforced under** this article commits a Class B infraction. Each day a violation occurs is a separate infraction.

SECTION 4. IC 14-26-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. ~~(a) The department may seek and a court having jurisdiction may grant injunctive relief under IC 14-25.5-4 for the violation of this chapter. The plaintiff in such a cause is not required to give bond; and after the filing of the action and the service of notice all matters involved in the action shall be held in abeyance until the action is tried and determined:~~

~~(b) If a defendant continues to violate this chapter after the service of notice of the action and before trial, the plaintiff is entitled; upon a verified showing of the acts on the part of the defendant; to a temporary restraining order without notice. The temporary restraining order is effective until the cause has been tried and determined:~~

SECTION 5. IC 14-26-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. The department may bring an action **in any court having jurisdiction under IC 14-25.5-4** for damages caused by a person who violates this chapter.

SECTION 6. IC 14-26-2-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. A person who **knowingly** violates this chapter commits a ~~Class C~~ **Class B** infraction.

SECTION 7. IC 14-26-2-22, AS AMENDED BY P.L.24-2001,

SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22. (a) In addition to other penalties prescribed by this chapter or IC 13-2-11.1 (before its repeal), the director may impose a civil penalty under ~~IC 4-21.5~~, ~~not to exceed one thousand dollars (\$1,000)~~, on a person who violates any of the following:

(1) ~~Section 6, 7, 8, 9, 10, 11, 12, 13, 18, or 23 of this chapter.~~

(2) ~~A rule relating to section 6, 7, 8, 9, 10, 11, 12, 13, 18, or 23 of this chapter.~~

(3) ~~A permit under this chapter.~~

(b) Each day a violation continues after a civil penalty is imposed under subsection (a) constitutes a separate violation.

(c) Civil penalties imposed under this section shall be deposited in the state general fund. **IC 14-25.5-4.**

SECTION 8. IC 14-26-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. A person who **knowingly** violates section 3 of this chapter commits a Class B infraction.

SECTION 9. IC 14-26-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. A person who **knowingly** lowers the water level of a lake more than twelve (12) inches below the high water mark established by the dam or other artificial device creating the lake commits a ~~Class C~~ **Class B** infraction.

SECTION 10. IC 14-27-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A person who **knowingly** rides or drives upon or over a levee constructed under law, except for the purpose of:

(1) passing over the levee:

(A) at a public or private crossing; or

(B) upon a part of a public highway; or

(2) inspection or repair;

commits a ~~Class C~~ **Class B** infraction.

SECTION 11. IC 14-27-7-5, AS AMENDED BY P.L.148-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If the department finds that a dike, floodwall, levee, or appurtenance is:

(1) not sufficiently strong;

(2) not maintained in a good and sufficient state of repair or operating condition; or

(3) unsafe and dangerous to life or property;
the department shall issue a notice of violation to the owner of the dike, floodwall, levee, or appurtenance ~~to make or cause to be made; at the owner's expense; the maintenance; alteration; repair; reconstruction; change in construction or location; or removal~~ that the department considers reasonable and necessary:

~~(b) The department shall limit in the notice the time for compliance with the notice based on the seriousness of the circumstances involving the structure.~~

~~(c) The owner shall comply with the notice. under IC 14-25.5-2.~~

SECTION 12. IC 14-27-7-7, AS AMENDED BY P.L.148-2002, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. An owner who **knowingly** fails to effect the maintenance, alteration, repair, reconstruction, change in construction or location, or removal within the time limit set forth in the notice of violation of the department under:

(1) section 5 of this chapter; or

(2) IC 13-2-20-4 (before its repeal);

commits a Class B infraction. Every day of failure constitutes a separate infraction.

SECTION 13. IC 14-27-7.5-7, AS ADDED BY P.L.148-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. **(a)** The owner of a structure shall maintain and keep the structure in the state of repair and operating condition required by the following:

(1) The exercise of prudence.

(2) Due regard for life and property.

(3) The application of sound and accepted technical principles.

(b) The owner of a structure shall notify the department in writing of the sale or other transfer of ownership of the structure. The notice must include the name and address of the new owner of the structure.

SECTION 14. IC 14-27-7.5-11, AS ADDED BY P.L.148-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. ~~(a)~~ If the department finds that a structure is:

(1) not sufficiently strong;

(2) not maintained in a good and sufficient state of repair or operating condition;

(3) not designed to remain safe during infrequent loading events;
or

(4) unsafe and dangerous to life and property;

the department may issue a notice of violation by letter to the owner of the structure. The notice may require the owner of the structure to make or cause to be made, at the owner's expense, the maintenance, alteration, repair, reconstruction, change in construction or location, or removal that the department considers reasonable and necessary.

(b) The department shall limit in the notice the time for compliance with the notice based on the seriousness of the circumstances involving the structure.

(c) ~~The owner shall comply with the notice: under IC 14-25.5-2.~~

SECTION 15. IC 14-27-7.5-13, AS ADDED BY P.L.148-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. An owner who **knowingly** fails to effect the maintenance, alteration, repair, reconstruction, change in construction or location, or removal within the time limit set forth in the notice of violation of the department under:

(1) section 11 of this chapter; or

(2) IC 13-2-20-4 (before its repeal);

commits a Class B infraction. Every day of failure constitutes a separate infraction.

SECTION 16. IC 14-27-7.5-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16. (a) A property owner, the owner's representative, or an individual who resides downstream from a structure:**

(1) over which the department does not have jurisdiction under this chapter; and

(2) that the property owner, the owner's representative, or the individual believes would cause a loss of life or damage to the person's home, industrial or commercial building, public utility, major highway, or railroad if the structure fails;

may request in writing that the department declare the structure a high hazard structure.

(b) If the department receives a request under subsection (a), the department shall:

(1) investigate the structure and the area downstream from

the structure;

(2) notify the owner of the structure that the structure is being investigated;

(3) review written statements and technical documentation from any interested party; and

(4) after considering the available information, determine whether or not the structure is a high hazard structure.

(c) The department shall issue a written notice of the department's determination under subsection (b) to:

(1) the individual who requested the determination; and

(2) the owner of the structure that is the subject of the request.

(d) Either:

(1) the individual who requested a determination; or

(2) the owner of the structure that is the subject of the request;

may request an administrative review under IC 4-21.5-3-6 within thirty (30) days after receipt of the written determination.

(e) If the department determines that a structure is a high hazard structure under subsection (b), the provisions of this chapter concerning high hazard structures apply to the structure.

SECTION 17. IC 14-28-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) This section does not apply to the reconstruction of a residence located in a boundary river floodway.

(b) A person may not begin the reconstruction of an abode or a residence that:

(1) is located in a floodway; and

(2) is substantially damaged (as defined in 44 CFR 59.1, as in effect on January 1, 1993) by a means other than floodwater;

unless the person has obtained a permit under this section or section 26.5 of this chapter.

(c) A person who desires to reconstruct an abode or a residence described in subsection (b) must file with the director a verified written application for a permit accompanied by a nonrefundable fee of fifty dollars (\$50). An application submitted under this section must do the following:

(1) Set forth the material facts concerning the proposed

reconstruction.

(2) Include the plans and specifications for the reconstruction.

(d) The director may issue a permit to an applicant under this section only if the applicant has clearly proven all of the following:

(1) The abode or residence will be reconstructed:

(A) in the area of the original foundation and in substantially the same configuration as the former abode or residence; or

(B) in a location that is, as determined by the director, safer than the location of the original foundation.

(2) The lowest floor elevation of the abode or residence as reconstructed, including the basement, will be at or above the one hundred (100) year flood elevation.

(3) The abode or residence will be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(4) The abode or residence will be reconstructed with materials resistant to flood damage.

(5) The abode or residence will be reconstructed by methods and practices that minimize flood damages.

(6) The abode or residence will be reconstructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and located to prevent water from entering or accumulating within the components during conditions of flooding.

(7) The abode or residence, as reconstructed, will comply with the minimum requirements for floodplain management set forth in 44 CFR Part 60, as in effect on January 1, 1993.

(e) When granting a permit under this section, the director may establish and incorporate into the permit certain conditions and restrictions that the director considers necessary for the purposes of this chapter.

(f) A permit issued by the director under this section is void if the reconstruction authorized by the permit is not commenced within two (2) years after the permit is issued.

(g) The director shall send a copy of each permit issued under this section to each river basin commission organized under:

(1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

(2) IC 14-30-1 or IC 36-7-6 (before its repeal);
that is affected by the permit.

(h) The person to whom a permit is issued under this section shall post and maintain the permit at the site of the reconstruction authorized by the permit.

(i) A person who **knowingly**:

(1) begins the reconstruction of an abode or a residence in violation of subsection (b);

(2) violates a condition or restriction of a permit issued under this section; or

(3) fails to post and maintain a permit at a reconstruction site in violation of subsection (h);

commits a ~~Class C~~ **Class B** infraction. Each day that the person is in violation of subsection (b), the permit, or subsection (h) constitutes a separate infraction.

SECTION 18. IC 14-28-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25. (a) A person who desires to reconstruct an abode or a residence that:

(1) is located in a floodway; and

(2) is not substantially damaged (as defined in 44 CFR 59.1, as in effect on January 1, 1997) by a means other than floodwater;

is not required to obtain a permit from the department for the reconstruction of the abode or residence if the reconstruction will meet the requirements set forth in 44 CFR Part 60, as in effect on January 1, 1997.

(b) A person who **knowingly** reconstructs an abode or a residence described in subsection (a) in a way that does not comply with the requirements referred to in subsection (a) commits a ~~Class C~~ **Class B** infraction.

SECTION 19. IC 14-28-1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 32. (a) A person who **knowingly** violates section 20(2), 20(3), or 29 of this chapter commits a Class B infraction.

(b) Each day of continuing violation after conviction of the offense constitutes a separate offense.

SECTION 20. IC 14-28-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) A person who **knowingly** fails to:

(1) comply with the requirements of section 20(1) of this chapter;
or

(2) obtain a permit under section 22 of this chapter;
commits a ~~Class C~~ **Class B** infraction.

(b) Each day a person violates section 20(1) or 22 of this chapter constitutes a separate infraction.

SECTION 21. IC 14-28-1-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 34. A person who **knowingly** fails to comply with section 22(i) of this chapter commits a ~~Class D~~ **Class B** infraction. Each day a person violates section 22(i) of this chapter constitutes a separate infraction.

SECTION 22. IC 14-28-1-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 35. The commission may ~~maintain an action to~~ enjoin a violation of this chapter **under IC 14-25.5-2**.

SECTION 23. IC 14-28-1-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 36. ~~(a)~~ In addition to other penalties prescribed by this chapter, the director may impose a civil penalty under ~~IC 4-21-5, not to exceed one thousand dollars (\$1,000); on a person who violates any of the following:~~

(1) ~~Section 20, 22, 27, or 29 of this chapter:~~

(2) ~~A rule relating to section 20, 22, 27, or 29 of this chapter:~~

(3) ~~A permit issued under this chapter:~~

(b) Each day a violation continues after a civil penalty is imposed under subsection (a) constitutes a separate violation:

(c) ~~Civil penalties imposed under this section shall be deposited in the state general fund: IC 14-25.5-4.~~

SECTION 24. IC 14-29-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A person who **knowingly** takes sand, gravel, stone, or other mineral or substance from or under the bed of the navigable water of Indiana without a permit commits a Class B infraction.

(b) Each day a violation continues constitutes a separate infraction.

SECTION 25. IC 14-29-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) A person who **knowingly** violates this chapter commits a ~~Class C~~ **Class B** infraction.

(b) Each day of continuing violation after conviction of the offense constitutes a separate offense.

SECTION 26. IC 14-34-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) After a permit is issued, the permittee may apply to the director for the release of all or part of the bond or deposit. As part of the bond release application, the permittee must do the following:

(1) Submit copies of letters that the permittee has sent by certified mail to:

- (A) adjoining property owners;
- (B) local government bodies;
- (C) planning agencies;
- (D) sewage and water treatment authorities; or
- (E) water companies;

in the county in which the surface coal mining and reclamation operation is located notifying the entities of the bond release application.

(2) Within thirty (30) days after filing the bond release application, submit a copy of an advertisement placed at least one (1) time a week for four (4) successive weeks in a newspaper of general circulation in the county in which the surface coal mining and reclamation operation is located. The advertisement must contain the following:

- (A) A notification of the precise location of the land affected.
- (B) The number of acres.
- (C) The permit and the date of approval.
- (D) The amount of the bond filed and the part sought to be released.
- (E) The type and appropriate dates of reclamation work performed.
- (F) A description of the results achieved relating to the operator's approved reclamation plan.

(b) The director may initiate an application for the release of a bond. If a bond release application is initiated by the director, the department shall perform the notification and certification requirements otherwise imposed on the permittee under this section and section 8 of this chapter.

SECTION 27. IC 14-34-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) This section applies to the following:

- (1) A person with a legal interest that might be adversely affected by release of a bond.
- (2) The responsible officer or head of a federal, state, or local governmental agency that:
 - (A) has jurisdiction by law or special expertise with respect to an environmental, a social, or an economic impact involved in the operation; or
 - (B) may develop and enforce environmental standards with respect to those operations.
- (b) A person described in subsection (a) may do the following:
 - (1) File written objections to the proposed release from bond with the director.
 - (2) Request a public hearing within thirty (30) days after the last publication of the ~~permittee's~~ notice required by section 7 of this chapter.

SECTION 28. IC 14-34-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) As used in this section, "mining" includes contract mining.

(b) As used in this section, "operator" includes a predecessor in interest, subsidiaries, and affiliates as approved by the director.

(c) Participation in the bond pool is open to each operator applying for a permit under this article who, after May 3, 1978, has a five (5) year history of mining within Indiana and who meets the following conditions:

- (1) Is not subject to an outstanding cessation order issued under:
 - (A) IC 13-4.1-11-5 (before its repeal); or
 - (B) IC 14-34-15-6.
- (2) Does not owe a civil penalty under:
 - (A) IC 13-4.1-12 (before its repeal);
 - (B) IC 14-34-16; or
 - (C) the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328).
- (3) Does not:
 - (A) owe a fee:
 - (i) under IC 13-4.1 (before its repeal);
 - (ii) under this article; or
 - (iii) collected under the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328); or

(B) have a history of delinquency in the payment of fees or civil penalties.

(4) Has never been suspended under:

(A) IC 13-4.1-6.5-6 (before its repeal); or

(B) section 6 of this chapter.

(d) Participation in the bond pool is:

(1) optional for each permit application;

(2) subject to approval by the director; and

(3) not effective until the entrance fee has been paid in full.

(e) The director may, based on all available information, disapprove an application that may create an unreasonable risk to the bond pool.

(f) This chapter does not preclude compliance with IC 14-34-6 instead of participation in the bond pool before commencement of participation in the bond pool.

(g) Commencement of participation in the bond pool for the applicable permit constitutes an irrevocable commitment to participate in the bond pool for the applicable permit for the duration of the surface coal mining operations covered under the permit, **unless the operator has replaced all bond pool liability with bonds acceptable under IC 14-34-6-1.**

(h) An operator may apply for participation in the bond pool on a bond increment area under an existing permit. Commencement of participation in the bond pool for the bond increment area, within an existing permit, constitutes an irrevocable commitment to participate in the bond pool for the duration of that surface coal mining permit, **unless the operator has replaced all bond pool liability with bonds acceptable under IC 14-34-6-1.**

SECTION 29. IC 14-34-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) Subject to subsection ~~(b)~~, **(c)**, an operator is suspended from the bond pool if the operator:

(1) fails to pay a fee or civil penalty under:

(A) IC 13-4.1 (before its repeal);

(B) this article; or

(C) the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328); or

(2) receives a cessation order that is not abated.

(b) If the final release of a bond has not been obtained within ten

(10) years after the date of the last required report of the affected area for the permit, including new disturbances, the director may require the operator to:

- (1) replace the bond pool liability with bonds acceptable under IC 14-34-6-1; and**
- (2) withdraw that operation from the bond pool.**

If the operator fails to comply with the director's order to withdraw a mine area from the bond pool, the director may suspend the operator from the bond pool.

(c) An operator is not suspended from the bond pool if the director makes a written determination that mitigating circumstances are present that would not create an unreasonable risk to the bond pool if the operator's participation continues.

(c)(d) An operator who is suspended from the bond pool shall cease all surface coal mining operations until the operator furnishes a new performance bond under IC 14-34-6-1 in an amount calculated under IC 14-34-6-2 for all disturbed areas and proposed additional mining areas under the permit. When the new performance bond has been executed, the bond pool has no additional liability for reclamation on any part of the area covered by the applicable permit.

SECTION 30. IC 14-34-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) The surface coal mine reclamation bond pool committee is established. The committee consists of the following:

- (1) Five (5) members not more than three (3) of whom may belong to the same political party, appointed by the governor director as follows:**

- (A) Three (3) members must represent a cross-section of coal operators.**

- (B) One (1) member must be a member of the commission.**

- (C) One (1) member must be a representative of the public with a license as a certified public accountant: knowledge of reclamation performance guarantees.**

- (2) The director or the director's designee, who is a nonvoting member.**

(b) The term of each member is four (4) years beginning July 1. A member may not be appointed to more than two (2) full terms. The governor director may remove an appointed member for cause.

(c) The committee shall do the following:

- (1) Annually elect a chairman.
- (2) Adopt rules for organization and procedure.

(d) Each member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) The committee shall, acting in an advisory capacity to the director, do the following:

- (1) Meet as necessary to perform duties under this chapter, but not less than ~~two (2) times~~ **one (1) time** each year, for the purpose of formulating recommendations to the director concerning oversight of the general operation of the bond pool.
- (2) Review and make recommendations concerning the following:
 - (A) All proposed expenses from the bond pool.
 - (B) All applications for admission to the bond pool.

(f) The director shall report ~~semiannually~~ **annually** to the committee and to the governor on the status of the bond pool.

SECTION 31. IC 14-34-19-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 15. (a) This section applies to the following:**

(1) When the department is considering a mine land reclamation project under IC 14-34-1-2 or 312 IAC 25-2-3 that is:

- (A) at least fifty percent (50%) funded by funds appropriated from a governmental entity that finances the construction through either the entity's budget or general revenue bonds; or**
- (B) less than fifty percent (50%) funded by funds appropriated from a governmental entity that finances the construction through either the entity's budget or general revenue bonds if the construction is an approved reclamation project under Title IV of the federal Surface Mining Control and Reclamation Act of 1977**

(30 U.S.C. 1201 through 30 U.S.C. 1328) and this chapter. Government financing guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments are not considered funds appropriated by a governmental entity under this subdivision. (2) When the level of funding for the construction will be less than fifty percent (50%) of the total cost because of planned coal extraction.

(b) The department must make the following determinations:

(1) The likelihood that coal will be mined under a surface coal mining and reclamation operations permit issued under this article. The determination must consider available information, including the following:

(A) Coal reserves from existing mine maps or other sources.

(B) Existing environmental conditions.

(C) All prior mining activity on or adjacent to the site.

(D) Current and historical coal production in the area.

(E) Any known or anticipated interest in mining the site.

(2) The likelihood that nearby mining activities might create new environmental problems or adversely affect existing environmental problems at the site.

(3) The likelihood that reclamation activities at the site might adversely affect nearby mining activities.

(c) If a decision is made to proceed with the reclamation project, the department must make the following determinations:

(1) The limits on any coal refuse, coal waste, or other coal deposits that can be extracted under the exemption under IC 14-34-1-2 and 312 IAC 25-2-3.

(2) The delineation of the boundaries of the abandoned mine lands reclamation project.

(d) The following documentation must be included in the abandoned mine lands reclamation case file:

(1) Determinations made under subsections (b) and (c).

(2) The information taken into account in making the determinations.

(3) The names of the persons making the determinations.

(e) The department must do the following for each project:

(1) Characterize the site regarding mine drainage, active slide

and slide prone areas, erosion and sedimentation, vegetation, toxic materials, and hydrological balance.

(2) Ensure that the reclamation project is conducted according to provisions of 30 CFR Subchapter R, this chapter, and applicable procurement provisions to ensure the timely progress and completion of the project.

(3) Develop specific site reclamation requirements, including, when appropriate, performance bonds that comply with procurement procedures.

(4) Require the contractor conducting the reclamation to provide, before reclamation begins, applicable documents that authorize the extraction of coal and any payment of royalties.

(f) The contractor must obtain a surface coal mining and reclamation operations permit under this article for any coal extracted beyond the limits of the incidental coal specified in subsection (c)(1).

SECTION 32. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding 312 IAC 25-1-57, "government financed construction" means construction that is:

(1) at least fifty percent (50%) funded by funds appropriated from a government financing agency's budget or obtained from general revenue bonds; or

(2) less than fifty percent (50%) funded by funds appropriated from a government financing agency's budget or obtained from general revenue bonds if construction is undertaken as an approved reclamation project under Title IV of the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 through 1328) and IC 14-34-19.

However, construction through government financing guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments do not qualify as government financed construction.

(b) Before July 1, 2006, the department of natural resources shall amend 312 IAC 25-1-57 to correspond with this SECTION.

(c) This SECTION expires July 1, 2007.

P.L.72-2004

[H.1207. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-1-8-1, AS AMENDED BY P.L.178-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

- (1) Department of state revenue.
- (2) Department of workforce development.
- (3) The programs administered by:
 - (A) the division of family and children;
 - (B) the division of mental health and addiction;
 - (C) the division of disability, aging, and rehabilitative services;and
- (D) the office of Medicaid policy and planning;
of the office of the secretary of family and social services.
- (4) Auditor of state.
- (5) State personnel department.
- (6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.
- (7) The legislative ethics commission, with respect to the registration of lobbyists.
- (8) Indiana department of administration, with respect to bidders on contracts.
- (9) Indiana department of transportation, with respect to bidders on contracts.
- (10) Health professions bureau.

- (11) Indiana professional licensing agency.
- (12) Indiana department of insurance, with respect to licensing of insurance producers.
- (13) A pension fund administered by the board of trustees of the public employees' retirement fund.
- (14) The Indiana state teachers' retirement fund.
- (15) The state police benefit system.

(16) The alcohol and tobacco commission.

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

- (1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.
- (2) That an individual include the individual's Social Security number on an application for registration.
- (3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, the health professions bureau, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

- (1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.
- (2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

(f) Notwithstanding this chapter, the professional standards board established by IC 20-1-1.4-2 may require an individual who applies to the board for a license or an endorsement to provide the individual's

Social Security number. The Social Security number may be used by the board only for conducting a background investigation, if the board is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 2. IC 6-1.1-12.1-3, AS AMENDED BY P.L.90-2002, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An applicant must provide a statement of benefits to the designating body. If the designating body requires information from the applicant for economic revitalization area status for use in making its decision about whether to designate an economic revitalization area, the applicant shall provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter. Otherwise, the statement of benefits form must be submitted to the designating body before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

- (1) A description of the proposed redevelopment or rehabilitation.
- (2) An estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the redevelopment or rehabilitation and an estimate of the annual salaries of these individuals.
- (3) An estimate of the value of the redevelopment or rehabilitation.

With the approval of the designating body, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(b) The designating body must review the statement of benefits required under subsection (a). The designating body shall determine whether an area should be designated an economic revitalization area or whether a deduction should be allowed, based on (and after it has made) the following findings:

- (1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.
- (2) Whether the estimate of the number of individuals who will be

employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by this subsection are made in the affirmative.

(c) Except as provided in subsections (a) through (b), the owner of property which is located in an economic revitalization area is entitled to a deduction from the assessed value of the property. If the area is a residentially distressed area, the period is not more than five (5) years. For all other economic revitalization areas designated before July 1, 2000, the period is three (3), six (6), or ten (10) years. For all economic revitalization areas designated after June 30, 2000, the period is the number of years determined under subsection (d). The owner is entitled to a deduction if:

(1) the property has been rehabilitated; or

(2) the property is located on real estate which has been redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the following years determined under subsection (d). However, property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) For an area designated as an economic revitalization area after

June 30, 2000, that is not a residentially distressed area, the designating body shall determine the number of years for which the property owner is entitled to a deduction. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

- (1) Private or commercial golf course.
- (2) Country club.
- (3) Massage parlor.
- (4) Tennis club.
- (5) Skating facility (including roller skating, skateboarding, or ice skating).
- (6) Racquet sport facility (including any handball or racquetball court).
- (7) Hot tub facility.
- (8) Suntan facility.
- (9) Racetrack.
- (10) Any facility the primary purpose of which is:
 - (A) retail food and beverage service;
 - (B) automobile sales or service; or
 - (C) other retail;

unless the facility is located in an economic development target area established under section 7 of this chapter.

(11) Residential, unless:

(A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;

(B) the facility is located in an economic development target area established under section 7 of this chapter; or

(C) the area is designated as a residentially distressed area.

(12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. This subdivision does not apply to an applicant that:

(A) was eligible for tax abatement under this chapter before July 1, 1995; ~~or~~

(B) is described in IC 7.1-5-7-11; **or**

(C) operates a facility under:

(i) a beer wholesaler's permit under IC 7.1-3-3;

(ii) a liquor wholesaler's permit under IC 7.1-3-8; or

(iii) a wine wholesaler's permit under IC 7.1-3-13;

for which the applicant claims a deduction under this chapter.

(f) This subsection applies only to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). Notwithstanding subsection (e)(11), in a county subject to this subsection a designating body may, before September 1, 2000, approve a deduction under this chapter for the redevelopment or rehabilitation of real property consisting of residential facilities that are located in unincorporated areas of the county if the designating body makes a finding that the facilities are needed to serve any combination of the following:

(1) Elderly persons who are predominately low-income or moderate-income persons.

(2) Disabled persons.

A designating body may adopt an ordinance approving a deduction under this subsection only one (1) time. This subsection expires January 1, 2011.

SECTION 3. IC 7.1-2-3-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16.5. (a) As used in this section, "facility" includes the following:

- (1) A facility to which IC 7.1-3-1-25(a) applies.
- (2) A tract that contains a premises that is described in ~~IC 7.1-3-1-14(c)(2)~~; **IC 7.1-3-1-14(c)(2)**.
- (3) A horse track or satellite facility to which IC 7.1-3-17.7 applies.
- (4) A tract that contains an entertainment complex.
- (b) As used in this section, "tract" has the meaning set forth in IC 6-1.1-1-22.5.
- (c) A facility may advertise alcoholic beverages:
 - (1) in the facility's interior; or
 - (2) on the facility's exterior.
- (d) The commission may not exercise the prohibition power contained in section 16(a) of this chapter on advertising by a brewer, distiller, rectifier, or vintner in or on a facility.
- (e) Notwithstanding IC 7.1-5-5-10 and IC 7.1-5-5-11, a facility may provide advertising to a permittee that is a brewer, distiller, rectifier, or vintner in exchange for compensation from that permittee.

SECTION 4. IC 7.1-3-1-14, AS AMENDED BY P.L.136-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a supplemental retailer's permit ~~which is not specified in subsection (c)~~ to sell the appropriate alcoholic beverages on Sunday from ~~noon~~, **10 a.m.**, prevailing local time, until 12:30 a.m., prevailing local time, the following day.

~~(c) It is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday from 11:00 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day if the holder of the permit meets the following criteria:~~

- ~~(1) the holder of the permit is a hotel; or~~
- ~~(2) the holder of the permit meets the requirements of 905 IAC 1-41-2(a).~~

~~(d) Notwithstanding subsections (b) and (c), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a supplemental~~

retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31 from the time provided in subsection (b) or (c) until 3 a.m. the following day.

(e) (c) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

- (1) are described in section 25(a) of this chapter;
- (2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or
- (3) are being used for a professional or an amateur tournament; beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(f) (d) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 5. IC 7.1-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) **Except as provided in subsection (b),** the commission may issue a brewer's permit only to:

- (1) an individual;
- (2) a partnership, all the partners of which are bona fide residents of **this state; Indiana;**
- (3) a limited liability company, all the members of which are bona fide residents of **this state; Indiana;** or
- (4) a corporation organized and existing under the laws of **this state Indiana** and having authority under its charter to manufacture or sell beer.

(b) **The commission may issue a brewer's permit to a brewer for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year to:**

- (1) **an individual;**
- (2) **a partnership organized and existing under the laws of Indiana;**
- (3) **a limited liability company organized and existing under the laws of Indiana; or**
- (4) **a corporation organized and existing under the laws of**

Indiana.

SECTION 6. IC 7.1-3-2-7, AS AMENDED BY P.L.177-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do the following:

- (1) Manufacture beer.
- (2) Place beer in containers or bottles.
- (3) Transport beer.
- (4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.
- (5) If the brewer's brewery manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year, do the following:

(A) Sell and deliver beer to a person holding a retailer or a dealer permit under this title.

(B) Be the proprietor of a restaurant.

(C) Hold a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant established under clause (B).

(D) Transfer beer directly from the brewery to the restaurant by means of:

- (i) bulk containers; or
- (ii) a continuous flow system.

(E) Install a window between the brewery and an adjacent restaurant that allows the public and the permittee to view both premises.

(F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.

(G) Sell the brewery's beer by the glass for consumption on the premises. Brewers permitted to sell beer by the glass under this clause must furnish the minimum food requirements prescribed by the commission.

- (6) If the brewer's brewery manufactures more than twenty thousand (20,000) barrels of beer in a calendar year, own a portion of the corporate stock of another brewery that:

(A) is located in the same county as the brewer's brewery;

- (B) manufactures less than twenty thousand (20,000) barrels of beer in a calendar year; and
- (C) is the proprietor of a restaurant that operates under subdivision (5).
- (7) Sell and deliver beer to a consumer at the plant of the brewer or at the residence of the consumer. The delivery to a consumer shall be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel, but the beer may be contained in bottles or other permissible containers.
- (8) Provide complimentary samples of beer that are:
 - (A) produced by the brewer; and
 - (B) offered to consumers for consumption on the brewer's premises.
- (9) Own a portion of the corporate stock of a sports corporation that:
 - (A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and
 - (B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.
- (10) For beer described in IC 7.1-1-2-3(a)(4):
 - (A) may allow transportation to and consumption of the beer on the licensed premises; and
 - (B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 7. IC 7.1-3-9-11, AS ADDED BY P.L.12-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) A liquor retailer may allow customers to sample the following:

- (1) **Beer.**
- (2) Wines.
- ~~(2)~~ (3) Liquors.
- ~~(3)~~ (4) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).
- (b) Sampling is permitted only:
 - (1) on the liquor retailer's permit premises; and
 - (2) during the permittee's regular business hours.
- (c) A liquor retailer may not charge for the samples provided to customers.
- (d) Sample size of wines may not exceed one (1) ounce.

(e) In addition to the other provisions of this section, a liquor retailer who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:

- (1) A liquor retailer may allow a customer to sample only a combined total of two (2) liquor, liqueur, or cordial samples per day.
- (2) Sample size of liqueurs or cordials may not exceed one-half (1/2) ounce.
- (3) Sample size of liquors may not exceed four-tenths (0.4) ounce.

(f) A sample size of beer may not exceed six (6) ounces.

SECTION 8. IC 7.1-3-9-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12. (a) This section applies to:**

- (1) the holder of a three-way permit that is issued to a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a premises that is described in IC 7.1-3-1-14(c)(2), or a convention center; or**
- (2) the holder of a catering permit while catering alcoholic beverages at a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a premises that is described in IC 7.1-3-1-14(c)(2), or a convention center.**

(b) As used in this section, "suite" means an area in a building or facility referred to in subsection (a) that:

- (1) is not accessible to the general public;**
- (2) has accommodations for not more than seventy-five (75) persons per suite; and**
- (3) is accessible only to persons who possess a ticket:**
 - (A) to an event in a building or facility referred to in subsection (a); and**
 - (B) that entitles the person to occupy the area while viewing the event described in clause (A).**

The term does not include a restaurant, lounge, or concession area, even if access to the restaurant, lounge, or concession area is limited to certain ticket holders.

(c) A permittee may allow the self-service of individual servings of alcoholic beverages in a suite.

(d) A person who:

- (1) possesses a ticket described in subsection (b)(3); and
 - (2) is at least twenty-one (21) years of age;
- may obtain an alcoholic beverage in a suite by self-service.
- (e) A permittee may do any of the following:
 - (1) Demand that a person occupying a suite provide:
 - (A) a written statement under IC 7.1-5-7-4; and
 - (B) identification indicating that the person is at least twenty-one (21) years of age.
 - (2) Supervise the self-service of alcoholic beverages.
 - (3) Have an employee in the suite who holds an employee permit under IC 7.1-3-18-9 to serve some or all of the alcoholic beverages.

SECTION 9. IC 7.1-3-10-13, AS AMENDED BY P.L.12-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) A liquor dealer permittee who is a proprietor of a package liquor store may allow customers to sample the following:

- (1) **Beer.**
 - (2) Wines.
 - ~~(2)~~ (3) Liquors.
 - ~~(3)~~ (4) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).
- (b) Sampling is permitted:
- (1) only on the package liquor store permit premises; and
 - (2) only during the store's regular business hours.
- (c) No charge may be made for the samples provided to the customers.
- (d) Sample size of wines may not exceed one (1) ounce.
- (e) In addition to the other provisions of this section, a proprietor who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:
- (1) A proprietor may allow a customer to sample not more than a combined total of two (2) liquor, liqueur, or cordial samples per day.
 - (2) Sample size of liqueurs or cordials may not exceed one-half (1/2) ounce.
 - (3) Sample size of liquors may not exceed four-tenths (0.4) ounce.
- (f) Sample size of beer may not exceed six (6) ounces.**

SECTION 10. IC 7.1-3-17.5-6, AS ADDED BY P.L.250-2003,

SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. Notwithstanding IC 7.1-5-5-7, the holder of an excursion and adjacent landsite permit may, subject to the approval of the commission, provide alcoholic beverages to guests without charge at an event on the licensed premises if all the following requirements are met:

- (1) The event is attended by not more than ~~five hundred (500)~~ **six hundred fifty (650)** guests.
- (2) The event is not more than ~~three (3)~~ **six (6)** hours in duration.
- (3) Each alcoholic beverage dispensed to a guest:
 - (A) is entered into a cash register that records and itemizes on the cash register tape each alcoholic beverage dispensed; and
 - (B) is entered into a cash register as a sale and at the same price that is charged to the general public.
- (4) At the conclusion of the event, all alcoholic beverages recorded on the cash register tape are paid by the holder of the excursion and adjacent landsite permit.
- (5) All records of the alcoholic beverage sales, including the cash register tape, shall be maintained by the holder of the excursion and adjacent landsite permit for not less than two (2) years.
- (6) The holder of the excursion and adjacent landsite permit complies with the rules of the commission.

SECTION 11. IC 7.1-3-20-16.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16.1. (a) This section applies to a municipal riverfront development project authorized under section 16(d) of this chapter.**

(b) In order to qualify for a permit, an applicant must demonstrate that the municipal riverfront development project area where the permit is to be located meets the following criteria:

- (1) The project boundaries must border on at least one (1) side of a river.**
- (2) The proposed permit premises may not be located more than:**

- (A) one thousand five hundred (1,500) feet; or**
- (B) three (3) city blocks;**

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because

the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit premises are located within:

(A) an economic development area, a blighted area, an urban renewal area, or a redevelopment area established under IC 36-7-14, IC 36-7-14.5, or IC 36-7-15.1; or

(B) an economic development project district under IC 36-7-15.2 or IC 36-7-26.

(4) The project must be funded in part with state and city money.

(5) The boundaries of the municipal riverfront development project must be designated by ordinance or resolution by the legislative body (as defined in IC 36-1-2-9(3) or IC 36-1-2-9(4)) of the city in which the project is located.

(c) Proof of compliance with subsection (b) must consist of the following documentation, which is required at the time the permit application is filed with the commission:

(1) A detailed map showing:

(A) definite boundaries of the entire municipal riverfront development project; and

(B) the location of the proposed permit within the project.

(2) A copy of the local ordinance or resolution of the local governing body authorizing the municipal riverfront development project.

(3) Detailed information concerning the expenditures of state and city funds on the municipal riverfront development project.

(d) Notwithstanding subsection (b), the commission may issue a permit for premises, the location of which does not meet the criteria of subsection (b)(2), if all the following requirements are met:

(1) All other requirements of this section and section 16(d) of this chapter are satisfied.

(2) The proposed premises is located not more than:

(A) three thousand (3,000) feet; or

(B) six (6) blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit applicant satisfies the criteria established by the commission by rule adopted under IC 4-22-2. The criteria established by the commission may require that the proposed premises be located in an area or district set forth in subsection (b)(3).

(4) The permit premises may not be located less than two hundred (200) feet from facilities owned by a state educational institution (as defined in IC 20-12-0.5-1).

(e) A permit may not be issued if the proposed permit premises is the location of an existing three-way permit subject to IC 7.1-3-22-3.

SECTION 12. IC 7.1-3-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. ~~Residency Requirements.~~ (a) The commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit of any type; or

(2) **a wine wholesaler's or liquor wholesaler's permit;**

to a person who has not been a continuous and bona fide resident of ~~this state~~ **Indiana** for five (5) years immediately preceding the date of the application for a permit.

(b) **The commission shall not issue a beer wholesaler's permit to a person who has not been a continuous and bona fide resident of Indiana for one (1) year.**

SECTION 13. IC 7.1-3-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) ~~Corporations.~~ The commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's~~, retailer's or dealer's permit of any type; or

(2) **a wine wholesaler's or liquor wholesaler's permit;**

to a corporation unless sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide

residents of ~~this state~~ **Indiana** for five (5) years.

(b) The commission shall not issue a beer wholesaler's permit to a corporation unless at least sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of Indiana for one (1) year.

(c) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a corporation unless at least one (1) of the stockholders shall have been a resident, for at least one (1) year immediately prior to making application for the permit, of the county in which the licensed premises are to be situated.

~~(c)~~ **(d)** Each officer and stockholder of a corporation shall possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 14. IC 7.1-3-21-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.2. (a) The commission shall not issue:

(1) an alcoholic beverage ~~wholesalers, retailers~~ **retailer's or dealers** **dealer's** permit of any type; or

(2) a wine wholesaler's or liquor wholesaler's permit;

to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a beer wholesaler's permit to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for one (1) year.

(c) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a limited partnership unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a partnership interest has been a resident of the county in which the licensed premises are to be situated.

~~(c)~~ **(d)** Each general partner and limited partner of a limited partnership must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 15. IC 7.1-3-21-5.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.4. (a) The commission shall not issue:

(1) an alcoholic beverage ~~wholesalers, retailers~~ **retailer's or dealer's** permit of any type; or

(2) a wine wholesaler's or liquor wholesaler's permit;

to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a beer wholesaler's permit to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for one (1) year.

(c) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a limited liability company unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a membership interest has been a resident of the county in which the licensed premises are to be situated.

~~(c)~~ **(d)** Each manager and member of a limited liability company must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 16. IC 7.1-5-7-11, AS AMENDED BY P.L.117-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

- (1) Civic center.
- (2) Convention center.
- (3) Sports arena.
- (4) Bowling center.
- (5) Bona fide club.
- (6) Drug store.
- (7) Grocery store.
- (8) Boat.
- (9) Dining car.
- (10) Pullman car.
- (11) Club car.
- (12) Passenger airplane.
- (13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.

(14) Satellite facility (as defined in IC 4-31-2-20.5).

(15) Catering hall under IC 7.1-3-20-24 that is not open to the public.

(16) That part of a hotel or restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.

(17) Entertainment complex.

(18) Indoor golf facility.

(19) A recreational facility such as a golf course, bowling center, or similar facility to which IC 7.1-3-16.5-2(c) applies.

(20) A licensed premises owned or operated by an educational institution of higher learning (as defined in IC 20-12-15-1).

(21) An automobile racetrack.

(b) For the purpose of this subsection, "food" means meals prepared on the licensed premises. It is lawful for a minor to be on licensed premises in a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink if all the following conditions are met:

(1) The minor is eighteen (18) years of age or older.

(2) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.

(3) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages.

SECTION 17. IC 7.1-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. ~~Retailer Owning Interest in Another Permit Prohibited.~~ **(a) Except as provided in subsection (b), it is unlawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a manufacturer's or wholesaler's permit of any type.**

(b) It is lawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a brewer's permit for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year.

SECTION 18. IC 7.1-5-9-5 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 19. [EFFECTIVE UPON PASSAGE] IC 6-1.1-12.1-3, as amended by this act, applies to property taxes first due and

payable after December 31, 2004.

SECTION 20. [EFFECTIVE JULY 1, 2004] IC 7.1-3-20-16.1, as added by this act, applies to an application for a permit received after June 30, 2004.

SECTION 21. [EFFECTIVE JULY 1, 2004] Notwithstanding IC 7.1-3-21-3, IC 7.1-3-21-5, IC 7.1-3-21-5.2, and IC 7.1-3-21-5.4, all as amended by this act, the residency requirement of five (5) years for beer wholesalers under IC 7.1-3-21-3, IC 7.1-3-21-5, IC 7.1-3-21-5.2, and IC 7.1-3-21-5.4 (as those provisions existed on June 30, 2004) shall remain in effect for all contracts entered into before July 1, 2004, under which a permit is to be transferred from an Indiana resident to a person who was not an Indiana resident at the time of execution of the contract.

SECTION 22. An emergency is declared for this act.

P.L.73-2004

[H.1229. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning trade regulations; consumer sales and credit and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-4-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 8. (a) The department shall develop and promote programs designed to make the best use of the resources of the state so as to assure a balanced economy and continuing economic growth for Indiana and for those purposes may do the following:

- (1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of the resources of the state.
- (2) Receive and expend all funds, grants, gifts, and contributions of money, property, labor, interest accrued from loans made by the department, and other things of value from public and private

sources, including grants from agencies and instrumentalities of the state and the federal government. The department:

(A) may accept federal grants for providing planning assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;

(B) shall administer these grants in accordance with their terms; and

(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.

(3) Direct that assistance, information, and advice regarding the duties and functions of the department be given the department by any officer, agent, or employee of the state. The head of any other state department or agency may assign one (1) or more of the department's or agency's employees to the department on a temporary basis, or may direct any division or agency under the department's or agency's supervision and control to make any special study or survey requested by the director.

(b) The department shall perform the following duties:

(1) Disseminate information concerning the industrial, commercial, governmental, educational, cultural, recreational, agricultural, and other advantages of Indiana.

(2) Plan, direct, and conduct research activities.

(3) Develop and implement industrial development programs to encourage expansion of existing industrial, commercial, and business facilities within Indiana and to encourage new industrial, commercial, and business locations within Indiana.

(4) Assist businesses and industries in acquiring, improving, and developing overseas markets and encourage international plant locations within Indiana. The director, with the approval of the governor, may establish foreign offices to assist in this function.

(5) Promote the growth of minority business enterprises by doing the following:

(A) Mobilizing and coordinating the activities, resources, and efforts of governmental and private agencies, businesses, trade associations, institutions, and individuals.

(B) Assisting minority businesses in obtaining governmental

or commercial financing for expansion, establishment of new businesses, or individual development projects.

(C) Aiding minority businesses in procuring contracts from governmental or private sources, or both.

(D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(6) Assist in community economic development planning and the implementation of programs designed to further this development.

(7) Assist in the development and promotion of Indiana's tourist resources, facilities, attractions, and activities.

(8) Assist in the promotion and marketing of Indiana's agricultural products, and provide staff assistance to the director in fulfilling the director's responsibilities as commissioner of agriculture.

(9) Perform the following energy related functions:

(A) Assist in the development and promotion of alternative energy resources, including Indiana coal, oil shale, hydropower, solar, wind, geothermal, and biomass resources.

(B) Encourage the conservation and efficient use of energy, including energy use in commercial, industrial, residential, governmental, agricultural, transportation, recreational, and educational sectors.

(C) Assist in energy emergency preparedness.

(D) Not later than January 1, 1994, establish:

(i) specific goals for increased energy efficiency in the operations of state government and for the use of alternative fuels in vehicles owned by the state; and

(ii) guidelines for achieving the goals established under item (i).

(E) Establish procedures for state agencies to use in reporting to the department on energy issues.

(F) Carry out studies, research projects, and other activities required to:

(i) assess the nature and extent of energy resources required to meet the needs of the state, including coal and other fossil fuels, alcohol fuels produced from agricultural and forest products and resources, renewable energy, and other energy resources;

(ii) promote cooperation among government, utilities,

- industry, institutions of higher education, consumers, and all other parties interested in energy and recycling market development issues; and
- (iii) promote the dissemination of information concerning energy and recycling market development issues.
- (10) Implement any federal program delegated to the state to effectuate the purposes of this chapter.
- (11) Promote the growth of small businesses by doing the following:
- (A) Assisting small businesses in obtaining and preparing the permits required to conduct business in Indiana.
 - (B) Serving as a liaison between small businesses and state agencies.
 - (C) Providing information concerning business assistance programs available through government agencies and private sources.
- (12) Assist the Indiana commission for agriculture and rural development in performing its functions under IC 4-4-22.
- (13) Develop and promote markets for the following recyclable items:
- (A) Aluminum containers.
 - (B) Corrugated paper.
 - (C) Glass containers.
 - (D) Magazines.
 - (E) Steel containers.
 - (F) Newspapers.
 - (G) Office waste paper.
 - (H) Plastic containers.
 - (I) Foam polystyrene packaging.
 - (J) Containers for carbonated or malt beverages that are primarily made of a combination of steel and aluminum.
- (14) Produce an annual recycled products guide and at least one
- (1) time each year distribute the guide to the following:
- (A) State agencies.
 - (B) The judicial department of state government.
 - (C) The legislative department of state government.
 - (D) State educational institutions (as defined in IC 20-12-0.5-1).

(E) Political subdivisions (as defined in IC 36-1-2-13).

(F) Bodies corporate and politic created by statute.

A recycled products guide distributed under this subdivision must include a description of supplies and other products that contain recycled material and information concerning the availability of the supplies and products.

(15) Beginning July 1, 2005, the department shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the department using funds appropriated under IC 4-4-3-23(e). The department shall adopt rules under IC 4-22-2 governing certification procedures and counseling requirements for nonprofit home ownership counselors. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the department in implementing this subdivision.

(c) The department shall submit a report to the general assembly before October 1 of each year concerning the availability of and location of markets for recycled products in Indiana. The report must include the following:

(1) A priority listing of recyclable materials to be targeted for market development. The listing must be based on an examination of the need and opportunities for the marketing of the following:

- (A) Paper.
- (B) Glass.
- (C) Aluminum containers.
- (D) Steel containers.
- (E) Bi-metal containers.
- (F) Glass containers.
- (G) Plastic containers.
- (H) Landscape waste.
- (I) Construction materials.
- (J) Waste oil.
- (K) Waste tires.
- (L) Coal combustion wastes.
- (M) Other materials.

(2) A presentation of a market development strategy that:

(A) considers the specific material marketing needs of Indiana;
and

(B) makes recommendations for legislative action.

(3) An analysis that examines the cost and effectiveness of future market development options.

SECTION 2. IC 4-4-3-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: **Sec. 23. (a) The home ownership education account within the state general fund is established to support the home ownership education programs established under section 8(b)(15) of this chapter. The account is administered by the department.**

(b) The home ownership education account consists of fees collected under IC 24-9-9.

(c) The expenses of administering the home ownership education account shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the home ownership education account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(e) Money in the account may be spent only after appropriation by the general assembly.

SECTION 3. IC 4-6-3-3, AS AMENDED BY P.L.2-2002, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: **Sec. 3.** If the attorney general has reasonable cause to believe that a person may be in possession, custody, or control of documentary material, or may have knowledge of a fact that is relevant to an investigation conducted to determine if a person is or has been engaged in a violation of IC 4-6-9, IC 4-6-10, IC 13-14-10, IC 13-14-12, IC 13-24-2, IC 13-30-4, IC 13-30-5, IC 13-30-6, IC 13-30-8, IC 23-7-8, IC 24-1-2, IC 24-5-0.5, IC 24-5-7, IC 24-5-8, **IC 24-9**, IC 25-1-7, IC 32-34-1, or any other statute enforced by the attorney general, only the attorney general may issue in writing, and cause to be served upon the person or the person's representative or agent, an investigative demand that requires that the person served do any combination of the following:

(1) Produce the documentary material for inspection and copying or reproduction.

(2) Answer under oath and in writing written interrogatories.

(3) Appear and testify under oath before the attorney general or the attorney general's duly authorized representative.

SECTION 4. IC 4-6-12 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2005]:

Chapter 12. Homeowner Protection Unit

Sec. 1. As used in this chapter, "unit" refers to the homeowner protection unit established under this chapter.

Sec. 2. The attorney general shall establish a homeowner protection unit to enforce IC 24-9 and to carry out this chapter.

Sec. 3. (a) Beginning July 1, 2005, the unit shall do the following:

(1) Investigate deceptive acts in connection with mortgage lending.

(2) Investigate violations of IC 24-9.

(3) Institute appropriate administrative and civil actions to redress:

(A) deceptive acts in connection with mortgage lending; and

(B) violations of IC 24-5-0.5 and IC 24-9.

(4) Cooperate with federal, state, and local law enforcement agencies in the investigation of:

(A) deceptive acts in connection with mortgage lending;

(B) criminal violations involving deceptive acts in connection with mortgage lending; and

(C) violations of IC 24-5-0.5 and IC 24-9.

(b) The attorney general shall adopt rules under IC 4-22-2 to the extent necessary to organize the unit.

Sec. 4. (a) The following may cooperate with the unit to implement this chapter:

(1) The Indiana professional licensing agency and the appropriate licensing boards with respect to persons licensed under IC 25.

(2) The department of financial institutions.

(3) The department of insurance with respect to the sale of insurance in connection with mortgage lending.

(4) The securities division of the office of the secretary of state.

(5) The supreme court disciplinary commission with respect to attorney misconduct.

(6) The Indiana housing finance authority.

(7) The department of state revenue.

(8) The state police department.

(9) A prosecuting attorney.

(10) Local law enforcement agencies.

(11) The department of commerce.

(b) Notwithstanding IC 5-14-3, the entities listed in subsection (a) may share information with the unit.

Sec. 5. The attorney general may file complaints with any of the entities listed in section 4 of this chapter to carry out this chapter and IC 24-9.

Sec. 6. The establishment of the unit and the unit's powers does not limit the jurisdiction of an entity described in section 4 of this chapter.

Sec. 7. The attorney general and an investigator of the unit may do any of the following when conducting an investigation under section 3 of this chapter:

(1) Issue and serve a subpoena for the production of records, including records stored in electronic data processing systems, for inspection by the attorney general or the investigator.

(2) Issue and serve a subpoena for the appearance of a person to provide testimony under oath.

(3) Apply to a court with jurisdiction to enforce a subpoena described in subdivision (1) or (2).

Sec. 8. The unit shall cooperate with the department of commerce in the development and implementation of the home ownership education programs established under IC 4-4-3-8(b)(15).

Sec. 9. (a) The homeowner protection unit account within the general fund is established to support the operations of the unit. The account is administered by the attorney general.

(b) The homeowner protection unit account consists of fees collected under IC 24-9-9.

(c) The expenses of administering the homeowner protection unit account shall be paid from money in the account.

(d) The treasurer of state shall invest the money in the homeowner protection unit account not currently needed to meet

the obligations of the account in the same manner as other public money may be invested.

(e) Before July 1, 2007:

(1) money in the homeowner protection unit account at the end of the state fiscal year does not revert to the state general fund; and

(2) there is annually appropriated to the attorney general from the homeowner protection unit account money sufficient for carrying out the purposes of this chapter and IC 24-9.

(f) After June 30, 2007:

(1) money in the homeowner protection unit account at the end of a state fiscal year reverts to the state general fund; and

(2) money in the homeowner protection unit account may only be spent after appropriation by the general assembly.

SECTION 5. IC 23-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The following securities are exempted from the registration requirements of section 3 of this chapter:

(1) A security (including a revenue obligation) issued or guaranteed by the United States, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one (1) or more of the foregoing or a certificate of deposit for any of the foregoing.

(2) A security issued or guaranteed by Canada, a Canadian province, a political subdivision of a Canadian province, an agency, or corporate or other instrumentality of one (1) or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor.

(3) A security issued by and representing an interest in or a debt of, or guaranteed by a bank organized under the laws of the United States, a bank, savings institution, or trust company organized and supervised under the laws of a state, a federal savings association, a savings association organized under the laws of a state and authorized to do business in Indiana, a federal credit union or a credit union, industrial loan association, or similar association organized and supervised under the laws of

this state, or a corporation or organization whose issuance of securities is required by any other law to be passed upon and authorized by the department of financial institutions or by a federal agency or authority.

(4) A security issued or guaranteed by a railroad or other common or contract carrier, a public utility, or a common or contract carrier or public utility holding company. However, an issuer or guarantor must be subject to regulation or supervision as to the issuance of its own securities by a public commission, board, or officer of the government of the United States, of a state, territory, or insular possession of the United States, of a municipality located in a state, territory, or insular possession, of the District of Columbia, or of the Dominion of Canada or a province of Canada.

(5) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Chicago Stock Exchange, or on any other exchange approved and designated by the commissioner, any other security of the same issuer that is of senior rank or substantially equal rank, a security called for by subscription rights or warrants so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(6) A promissory note, draft, bill of exchange, or banker's acceptance that is evidence of:

- (A) an obligation;
- (B) a guarantee of an obligation;
- (C) a renewal of an obligation; or
- (D) a guarantee of a renewal of an obligation;

to pay cash within nine (9) months after the date of issuance, excluding grace days, that is issued in denominations of at least fifty thousand dollars (\$50,000) and receives a rating in one (1) of the three (3) highest rating categories from a nationally recognized statistical rating organization.

(7) A security issued in connection with an employee stock purchase, savings, pension, profit-sharing, or similar benefit plan.

(8) A security issued by an association incorporated under IC 15-7-1.

(9) A security that is an industrial development bond (as defined

in Section 103(b)(2) of the Internal Revenue Code of 1954) the interest of which is excludable from gross income under Section 103(a)(1) of the Internal Revenue Code of 1954 if, by reason of the application of paragraph (4) or (6) of Section 103(b) of the Internal Revenue Code of 1954 (determined as if paragraphs (4)(A), (5), and (7) were not included in Section 103(b)), paragraph (1) of Section 103(b) does not apply to the security.

(10) A security issued by a nonprofit corporation that meets the requirements of Section 103(e) of the Internal Revenue Code of 1954 and is designated by the governor as the secondary market for guaranteed student loans under IC 20-12-21.2.

(11) A security designated or approved for designation upon notice of issuance on the National Association of Securities Dealers Automatic Quotation National Market System or any other national market system approved and designated by the commissioner, any other security of the same issuer that is of senior rank or substantially equal rank, a security called for by subscription rights or warrants so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(12) A security that is a "qualified bond" (as defined in Section 141(e) of the Internal Revenue Code, as amended).

(b) The following transactions are exempted from the registration requirements of section 3 of this chapter:

(1) An isolated nonissuer offer or sale, whether effected through a broker-dealer or not.

(2) A nonissuer sale effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy.

(3) A nonissuer offer or sale by a registered broker-dealer, acting either as principal or agent, of issued and outstanding securities if the following conditions are satisfied:

(A) The securities are sold at prices reasonably related to the current market price at the time of sale, and if the registered broker-dealer is acting as agent, the commission collected by the registered broker-dealer on account of the sale is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics.

(B) The securities do not constitute an unsold allotment to or

subscription by the broker-dealer as a participant in the distribution of the securities by the issuer or by or through an underwriter.

(C) Either:

(i) information consisting of the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than eighteen (18) months prior to the date of the sale, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations is published in a securities manual approved by the commissioner;

(ii) the issuer is required to file reports with the Securities and Exchange Commission pursuant to sections 13 and 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78o) and is not delinquent in the filing of the reports on the date of the sale; or

(iii) information consisting of the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than sixteen (16) months prior to the date of the sale, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations is on file with the commissioner. The information required by this item to be on file with the commissioner must be on a form and made in a manner as the commissioner prescribes. The fee for the initial filing of the form shall be twenty-five dollars (\$25). The fee for the annual renewal filing shall be fifteen dollars (\$15). When a filing is withdrawn or is not completed by the issuer, the commissioner must retain the filing fee.

(D) There has been compliance with section 6(l) of this chapter.

(E) Unless the issuer is registered under the Investment Company Act of 1940, all the following must be true at the time of the transaction:

(i) The security belongs to a class that has been in the hands of the public for at least ninety (90) days.

(ii) The issuer of the security is a going concern, is actually engaged in business, and is not in bankruptcy or

receivership.

(iii) Except as permitted by order of the commissioner, the issuer and any predecessors have been in continuous operation for at least five (5) years. An issuer or predecessor is in continuous operation only if the issuer or predecessor has gross operating revenue in each of the five (5) years immediately preceding the issuer's or predecessor's claim of exemption and has had total gross operating revenue of at least two million five hundred thousand dollars (\$2,500,000) for those five (5) years or has had gross operating revenue of at least five hundred thousand dollars (\$500,000) in not less than three (3) of those five (5) years.

The commissioner may revoke the exemption afforded by this subdivision with respect to any securities by issuing an order:

- (i) if the commissioner finds that the further sale of the securities in this state would work or tend to work a fraud on purchasers of the securities;
 - (ii) if the commissioner finds that the financial condition of the issuer is such that it is in the public interest and is necessary for the protection of investors to revoke or restrict the exemption afforded by this subsection; or
 - (iii) if the commissioner finds that, due to the limited number of shares in the hands of the public or due to the limited number of broker-dealers making a market in the securities, there is not a sufficient market for the securities so that there is not a current market price for the securities.
- (4) A transaction between the issuer or other person on whose behalf the offering is made by an underwriter, or among underwriters.
- (5) A transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness, is offered and sold as a unit.
- (6) A transaction by an executor, administrator, personal representative, sheriff, marshal, receiver, trustee in bankruptcy, guardian, conservator, or a person acting in a trust or fiduciary capacity where the transaction is effected pursuant to the authority

of or subject to approval by a court of competent jurisdiction.

(7) A transaction executed by a bona fide pledgee without any purpose of evading this chapter.

(8) An offer or sale to a bank, a savings institution, a trust company, an insurance company, an investment company (as defined in the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-52)), a pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity.

(9) The offer or sale of securities of an issuer:

(i) to a person who is:

(A) a director, an executive officer, a general partner, an administrator, or a person who performs similar functions for or who is similarly situated with respect to the issuer;

(B) a director, an executive officer, or a general partner of a general partner of the issuer; or

(C) any other natural person employed on a full-time basis by the issuer as an attorney or accountant if the person has been acting in this capacity for at least one (1) year immediately prior to the offer or sale;

(ii) to an entity affiliated with the issuer;

(iii) if the issuer is a corporation, to a person who is the owner of shares of the corporation or of an affiliated corporation representing and possessing ten percent (10%) or more of the total combined voting power of all classes of stock (of the corporation or affiliated corporation) issued and outstanding and who is entitled to vote; or

(iv) if the issuer is a limited liability company, to a person who is the owner of an interest in the limited liability company representing and possessing at least ten percent (10%) of the total combined voting power of all classes of such interests (of the limited liability company or affiliated limited liability company) issued and outstanding.

(10) The offer or sale of a security by the issuer of the security if all of the following conditions are satisfied:

(A) The issuer reasonably believes that either:

(i) there are no more than thirty-five (35) purchasers of the securities from the issuer in an offering pursuant to this

subsection, including purchasers outside Indiana; or

(ii) there are no more than twenty (20) purchasers in Indiana.

In either case, there shall be excluded in determining the number of purchasers a purchaser whom the issuer reasonably believes to be an accredited investor or who purchases the securities after they are registered under this chapter.

(B) The issuer does not offer or sell the securities by means of a form of general advertisement or general solicitation.

(C) The issuer reasonably believes that each purchaser of the securities is acquiring the securities for the purchaser's own investment and is aware of any restrictions imposed on transferability and resale of the securities. The basis for reasonable belief may include:

(i) obtaining a written representation signed by the purchaser that the purchaser is acquiring the securities for the purchaser's own investment and is aware of any restrictions imposed on the transferability and resale of the securities; and

(ii) placement of a legend on the certificate or other document that evidences the securities stating that the securities have not been registered under section 3 of this chapter, and setting forth or referring to the restrictions on transferability and sale of the securities.

(D) The issuer:

(i) files with the commissioner and provides to each purchaser in this state an offering statement that sets forth all material facts with respect to the securities; and

(ii) reasonably believes immediately before making a sale that each purchaser who is not an accredited investor either alone or with a purchaser representative has knowledge and experience in financial and business matters to the extent that the purchaser is capable of evaluating the merits and risks of the prospective investment.

(E) If the aggregate offering price of the securities in an offering pursuant to this subdivision (including securities sold outside of Indiana) does not exceed five hundred thousand dollars (\$500,000), the issuer is not required to comply with

clause (D) if the issuer files with the commissioner and provides to each purchaser in Indiana the following information and materials:

- (i) copies of all written materials, if any, concerning the securities that have been provided by the issuer to any purchaser; and
- (ii) unless clearly presented in all written materials, a written notification setting forth the name, address, and form of organization of the issuer and any affiliate, the nature of the principal businesses of the issuer and any affiliate, and the information required in section 5(b)(1)(B), 5(b)(1)(C), 5(b)(1)(D), 5(b)(1)(E), 5(b)(1)(H), and 5(b)(1)(I) of this chapter.

(F) The commissioner does not disallow the exemption provided by this subdivision within ten (10) full business days after receipt of the filing required by clause (D) or (E). The issuer may make offers (but not sales) before and during the ten (10) day period, if:

- (i) each prospective purchaser is advised in writing that the offer is preliminary and subject to material change; and
- (ii) no enforceable offer to purchase the securities may be made by a prospective purchaser, and no consideration in any form may be accepted or received (directly or indirectly) from a prospective purchaser, before the expiration of the ten (10) day period and the vacation of an order disallowing the exemption.

(G) The issuer need not comply with clause (D), (E), or (F) if:

- (i) each purchaser has access to all the material facts with respect to the securities by reason of the purchaser's active involvement in the organization or management of the issuer or the purchaser's family relationship with a person actively involved in the organization or management of the issuer;
- (ii) there are not more than fifteen (15) purchasers in Indiana and each Indiana purchaser is an accredited investor or is a purchaser described in item (i); or
- (iii) the aggregate offering price of the securities, including securities sold outside Indiana, does not exceed five hundred thousand dollars (\$500,000), the total number of purchasers,

including purchasers outside of Indiana, does not exceed twenty-five (25) and each purchaser either receives all of the material facts with respect to the security or is an accredited investor or a purchaser described in item (i).

(H) If the issuer makes or is required to make a filing with the commissioner under clause (D) or (E), the issuer must also file with the commissioner at the time of the filing the consent to service of process required by section 16 of this chapter. The issuer shall also file with the commissioner, at the times and in the forms as the commissioner may prescribe, notices of sales made in reliance upon this subdivision.

(I) The commissioner may by rule deny exemption provided in this subdivision to a particular class of issuers, or may make the exemption available to the issuers upon compliance with additional conditions and requirements, if appropriate in furtherance of the intent of this chapter.

(11) An offer or sale of securities to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety (90) days of their issuance if no commission or other remuneration (other than a standby commission) is paid or given for soliciting a security holder in this state.

(12) An offer (but not a sale) of a security for which registration statements or applications have been filed under this chapter and the Securities Act of 1933 (15 U.S.C. 77a-77aa), if no stop order or refusal order is in effect and no public proceeding or examination looking toward an order is pending under either law.

(13) The deposit of shares under a voting-trust agreement and the issue of voting-trust certificates for the deposit.

(14) The offer or sale of a commodity futures contract.

(15) The offer or sale of securities to or for the benefit of security holders incident to a vote by the security holders pursuant to the articles of incorporation or applicable instrument, on a merger or share exchange under IC 23-1-40 or the laws of another state, reclassification of securities, exchange of securities under IC 28-1-7.5, or sale of assets of the issuer in consideration of the issuance of securities of the same or another issuer.

(16) A limited offering transactional exemption, which may be created by rule adopted by the commissioner. The exemption must further the objectives of compatibility with federal exemptions and uniformity among the states.

(c) The commissioner may consider and determine if a proposed sale, transaction, issue, or security is entitled to an exemption accorded by this section. The commissioner may decline to exercise the commissioner's authority as to a proposed sale, transaction, issue, or security. An interested party desiring the commissioner to exercise the commissioner's authority must submit to the commissioner a verified statement of all material facts relating to the proposed sale, transaction, issue, or security, which must be accompanied by a request for a ruling as to the particular exemption claimed, together with a filing fee of one hundred dollars (\$100). After notice to the interested parties as the commissioner determines is proper and after a hearing, if any, the commissioner may enter an order finding the proposed sale, transaction, issue, or security entitled or not entitled to the exemption claimed. An order entered, unless an appeal is taken from it in the manner prescribed in section 20 of this chapter, is binding upon the commissioner and upon all interested parties, provided that the proposed sale, transaction, issue, or security when consummated or issued conforms in every relevant and material particular with the facts as set forth in the verified statement submitted.

(d) The commissioner may by order deny or revoke an exemption specified in subsection (a)(6), (a)(7), or (b) with respect to a specific security or transaction, if the commissioner finds that the securities to which the exemption applies would not qualify for registration under sections 4 and 5 of this chapter. No order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the commissioner may by order summarily deny or revoke any of the specific exemptions pending final determination of a proceeding under this subsection. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered, of the reasons for the order, and that within fifteen (15) days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the

commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated section 3 of this chapter by reason of an offer or sale effected after the entry of an order under this subsection if the person sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the order.

(e) If, with respect to an offering of securities, any notices or written statements are required to be filed with the commissioner under subsection (b)(10), the first filing made with respect to the offering must be accompanied by a filing fee of one hundred dollars (\$100).

(f) A condition, stipulation, or provision requiring a person acquiring a security to waive compliance with this chapter or a rule or order under this chapter is void.

SECTION 6. IC 23-2-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) An application for registration may be filed by:

- (1) the issuer;
- (2) any other person on whose behalf the offering is to be made;
- or
- (3) a registered broker-dealer.

(b) A person filing an application for registration shall pay a filing fee of one-twentieth of one percent (0.05%) of the maximum aggregate offering price at which the registered securities are to be offered in Indiana, but the fee may not be less than two hundred fifty dollars (\$250) and may not be more than one thousand dollars (\$1,000).

(c) When an application for registration under subsection (b) is withdrawn before the effective date or a preeffective stop order is entered under section 7 of this chapter, the commissioner shall retain two hundred fifty dollars (\$250) of the fee.

(d) A person filing an amendment to an effective registration which requires an order of the commissioner shall pay a twenty-five dollar (\$25) filing fee.

(e) An application for registration shall specify:

- (1) the amount of securities to be offered in this state;
- (2) the states in which a registration statement or similar

document in connection with the offering has been or is to be filed; and

(3) an adverse order, judgment, or decree entered in connection with the offering by the regulatory authorities in each state or by a court or the Securities and Exchange Commission.

(f) A document filed under this chapter within five (5) years preceding the filing of an application for registration may be incorporated by reference in the application for registration if the document is currently accurate.

(g) The commissioner may by rule or otherwise permit the omission of an item of information or document from an application for registration.

(h) In the case of a nonissuer distribution, any part of the information that might otherwise be required under section 5 of this chapter or subsection (i) need not be furnished if the person filing the application for registration produces evidence to the reasonable satisfaction of the commissioner that the person, or the persons on whose behalf the distribution is to be made, cannot furnish that part of the required information without unreasonable effort or expense.

(i) A registration is effective for:

(1) two (2) years from its effective date; or

(2) a shorter period during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or the person on whose behalf the offering is being made or by an underwriter or broker-dealer who is still offering part of an unsold allotment or subscription taken by the underwriter or broker-dealer as a participant in the distribution, except during the time a stop order is in effect under section 7 of this chapter.

(j) So long as a registration is effective, the commissioner may by rule or order require the person who filed the application for registration to file reports, not more often than quarterly, to keep reasonably current the information contained in the application for registration and to disclose the progress of the offering.

(k) The commissioner may by rule or order require as a condition of registration by qualification or coordination:

(1) that a security issued within the past three (3) years or to be issued to a promoter for a consideration substantially different

from the public offering price, or to a person for a consideration other than cash, be deposited in escrow; and

(2) that the proceeds from the sale of the registered security be impounded until the issuer receives a specified amount.

The commissioner may by rule or order determine the conditions of an escrow or impounding required under this subsection, but the commissioner may not reject a depository solely because of location in another state.

(l) No transferable share is exempt from registration under section 2(b)(3) of this chapter or is qualified for registration under sections 4 or 5 of this chapter unless the issuer has designated a qualified transfer agent to handle all transfers. The commissioner may adopt rules to implement this subsection. The commissioner may by rule or order exempt an issuer, wholly or partially, from the requirements of this subsection.

(m) A registration statement may be amended after its effective date to increase the securities specified to be offered and sold if the public offering price and underwriters' discounts and commissions are not changed from the amounts reported to the commissioner. An amendment becomes effective upon an order of the commissioner. A person filing an amendment must pay a late registration fee of twenty-five dollars (\$25) and a filing fee under subsection (b) for the additional securities proposed to be offered. An amendment relates back to the date of the sale of additional securities being registered if the amendment is filed within three (3) months after the date of the sale and the additional filing fee and late registration fee are paid.

(n) As permitted by Section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(c)), securities that are offered and sold pursuant to Section 4(5) of the Securities Act of 1933 or that are mortgage-related securities (as that term is defined in Section 3(a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(41)):

(1) must comply with all applicable:

(A) registration and qualification requirements of this chapter; and

(B) rules adopted by the commissioner; and

(2) shall not be treated as obligations issued by the United States for the purposes of this chapter.

(o) If:

(1) the division:

(A) does not approve an application for registration by coordination or qualification; and

(B) notifies the applicant not later than ten (10) days after the date the application was not approved of a deficiency in the application that, if satisfied, would allow the approval of the application;

the applicant may satisfy the deficiency within sixty (60) days after the date described in clause (B); and

(2) an applicant does not satisfy the deficiency described in subdivision (1):

(A) the application is considered abandoned;

(B) the issuer does not receive a refund of the application fee; and

(C) no further action is required by the division.

SECTION 7. IC 23-2-1-15, AS AMENDED BY P.L.270-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) This chapter shall be administered by a division of the office of the secretary of state. The secretary of state shall appoint a securities commissioner who shall be responsible for the direction and supervision of the division and the administration of this chapter under the direction and control of the secretary of state. The salary of the securities commissioner shall be paid out of the funds appropriated for the administration of this chapter. The commissioner shall serve at the will of the secretary of state.

(b) The secretary of state:

(1) shall employ a chief deputy, a senior investigator, a senior accountant, and other deputies, investigators, accountants, clerks, stenographers, and other employees necessary for the administration of this chapter; and

(2) shall fix their compensation with the approval of the budget agency.

The chief deputy, other deputies, the senior investigator, and the senior accountant, once employed under this chapter, may be dismissed only for cause by the secretary of state upon ten (10) days notice in writing stating the reasons for dismissal. Within fifteen (15) days after dismissal, the chief deputy, other deputies, the senior investigator, and

the senior accountant may appeal to the state personnel board. The state personnel board shall hold a hearing, and if it finds that the appealing party was dismissed for a political, social, religious, or racial reason, the appealing party shall be reinstated to the appealing party's position without loss of pay. In all other cases, if the decision is favorable to the appealing party, the secretary of state shall follow the findings and recommendations of the board, which may include reinstatement and payment of salary or wages lost. The hearing and any subsequent proceedings or appeals shall be governed by the provisions of IC 4-15-2 and IC 4-21.5.

(c) Fees and funds of whatever character accruing from the administration of this chapter shall be accounted for by the secretary of state and shall be deposited with the treasurer of state to be deposited by the treasurer of state in the general fund of the state. Expenses incurred in the administration of this chapter shall be paid from the general fund upon appropriation being made for the expenses in the manner provided by law for the making of those appropriations. However, costs of investigations recovered under sections 16(d) and 17.1(c) of this chapter shall be deposited with the treasurer of state to be deposited by the treasurer of state in a separate account to be known as the securities division enforcement account. The funds in the account shall be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this chapter. The funds in the account do not revert to the general fund at the end of any fiscal year.

(d) In connection with the administration and enforcement of the provisions of this chapter, the attorney general shall render all necessary assistance to the securities commissioner upon the commissioner's request, and to that end, the attorney general shall employ legal and other professional services as are necessary to adequately and fully perform the service under the direction of the securities commissioner as the demands of the securities division shall require. Expenses incurred by the attorney general for the purposes stated in this subsection shall be chargeable against and paid out of funds appropriated to the attorney general for the administration of the attorney general's office.

(e) Neither the secretary of state, the securities commissioner, nor an employee of the securities division shall be liable in their individual

capacity, except to the state, for an act done or omitted in connection with the performance of their respective duties under this chapter.

(f) The commissioner, subject to the approval of the secretary of state, may adopt rules, orders, and forms necessary to carry out this chapter, including rules and forms concerning registration statements, applications, reports, and the definitions of any terms if the definitions are consistent with this chapter. The commissioner may by rule or order allow for exemptions from registration requirements under sections 3 and 8 of this chapter if the exemptions are consistent with the public interest and this chapter.

(g) The provisions of this chapter delegating and granting power to the secretary of state, the securities division, and the securities commissioner shall be liberally construed to the end that:

- (1) the practice or commission of fraud may be prohibited and prevented;
- (2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured; and
- (3) the qualifications may be prescribed to assure availability of reliable broker-dealers, investment advisers, and agents engaged in and in connection with the issuance, barter, sale, purchase, transfer, or disposition of securities in this state.

It is the intent and purpose of this chapter to delegate and grant to and vest in the secretary of state, the securities division, and the securities commissioner full and complete power to carry into effect and accomplish the purpose of this chapter and to charge them with full and complete responsibility for its effective administration.

(h) It is the duty of a prosecuting attorney, as well as of the attorney general, to assist the securities commissioner upon the commissioner's request in the prosecution to final judgment of a violation of the penal provisions of this chapter and in a civil proceeding or action arising under this chapter. If the commissioner determines that an action based on the securities division's investigations is meritorious:

- (1) the commissioner or a designee empowered by the commissioner shall certify the facts drawn from the investigation to the prosecuting attorney of the judicial circuit in which the crime may have been committed;
- (2) the commissioner and the securities division shall assist the

prosecuting attorney in prosecuting an action under this section, **which may include a securities division attorney serving as a special deputy prosecutor appointed by the prosecuting attorney;**

(3) a prosecuting attorney to whom facts concerning fraud are certified under subdivision (1) may refer the matter to the attorney general; and

(4) if a matter has been referred to the attorney general under subdivision (3), the attorney general may:

(A) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and

(B) prosecute the alleged offense.

(i) The securities commissioner shall take, prescribe, and file the oath of office prescribed by law. The securities commissioner, senior investigator, and each deputy are police officers of the state and shall have all the powers and duties of police officers in making arrests for violations of this chapter, or in serving any process, notice, or order connected with the enforcement of this chapter by whatever officer or authority or court issued. The securities commissioner, the deputy commissioners for enforcement, and the investigators comprise the enforcement department of the division and are considered a criminal justice agency for purposes of IC 5-2-4 and IC 10-13-3.

(j) The securities commissioner and each employee of the securities division shall be reimbursed for necessary hotel and travel expenses when required to travel on official duty. Hotel and travel reimbursements shall be paid in accordance with the travel regulations prescribed by the budget agency.

(k) It is unlawful for the secretary of state, the securities commissioner, or the securities division's employees to use for personal benefit information that is filed with or obtained by the securities division and that is not made public. No provision of this chapter authorizes the secretary of state, the securities commissioner, or the employees of the securities division to disclose information except among themselves, or when necessary or appropriate, in a proceeding or investigation under this chapter. No provision of this chapter either creates or derogates from a privilege that exists at common law or otherwise when documentary or other evidence is sought under a

subpoena directed to the secretary of state, the securities commissioner, or the securities division or its employees.

(l) The commissioner may honor requests from interested persons for interpretative opinions and from interested persons for determinations that the commissioner will not institute enforcement proceedings against specified persons for specified activities. A determination not to institute enforcement proceedings must be consistent with this chapter. **A person may not request an interpretive opinion concerning an activity that:**

(1) occurred before; or

(2) is occurring on;

the date that the opinion is requested. The commissioner shall charge a fee of one hundred dollars (\$100) for an interpretative opinion or determination.

SECTION 8. IC 23-2-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) A person who offers or sells a security in violation of this chapter, and who does not sustain the burden of proof that the person did not know and in the exercise of reasonable care could not have known of the violation, is liable to any other party to the transaction who did not knowingly participate in the violation or who did not have, at the time of the transaction, knowledge of the violation, who may sue either at law or in equity to rescind the transaction or to recover the consideration paid, together, in either case, with interest as computed in subsection (g)(1), plus costs, and reasonable attorney's fees, less the amount of any cash or other property received on the security upon the tender of the security by the person bringing the action or for damages if the person no longer owns the security. Damages are the amount that would be recoverable upon a tender less:

(1) the value of the security when the buyer disposed of the security; and

(2) the interest as computed in subsection (g)(1) on the value of the security from the date of disposition.

(b) A person who purchases a security in violation of this chapter, and who does not sustain the burden of proof that the person did not know and in the exercise of reasonable care could not have known of the violation, is liable to any other party to the transaction who did not knowingly participate in the violation or who did not have, at the time

of the transaction, knowledge of the violation. The other party to the transaction may bring an action to rescind the transaction or for damages, together, in either case, with reasonable attorney's fees, upon the tender of the consideration received by the person bringing the action.

(c) A person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues analyses or reports concerning securities and:

- (1) violates section 8, 12.1(b), ~~or~~ 14, **or 26** of this chapter;
- (2) employs a device, scheme, or artifice to defraud a person; or
- (3) engages in an act that operates or would operate as fraud or deceit upon a person;

is liable to the other person, who may bring an action to recover any consideration paid for advice, any loss due to advice, interest at eight percent (8%) each year from the date consideration was paid, costs, and reasonable attorney's fees less the value of cash or property received due to the advice. It is a defense to an action brought for a violation of section 12.1(b) ~~or 26~~ of this chapter that the person accused of the violation did not know of the violation and, exercising reasonable care, could not have known of the violation.

(d) A person who directly or indirectly controls a person liable under subsection (a), (b), or (c), a partner, officer, or director of the person, a person occupying a similar status or performing similar functions, an employee of a person who materially aids in the conduct creating the liability, and a broker-dealer or agent who materially aids in the conduct are also liable jointly and severally with and to the same extent as the person, unless the person who is liable sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons liable.

(e) A tender specified in this section may be made at any time before entry of judgment.

(f) A cause of action under this statute survives the death of a person who might have been a plaintiff or defendant.

(g) Action under this section shall be commenced within three (3) years after discovery by the person bringing the action of a violation of this chapter, and not afterwards. No person may sue under this section:

(1) if that person received a written offer, before suit and at a time when the person owned the security, to refund the consideration paid together with interest on that amount from the date of payment to the date of repayment, with interest on:

(A) interest-bearing obligations to be computed at the same rate as provided on the security; and

(B) all other securities at the rate of eight percent (8%) per year;

less the amount of any income received on the security, and the person failed to accept the offer within thirty (30) days of its receipt; or

(2) if the person received an offer before suit and at a time when the person did not own the security, unless the person rejected the offer in writing within thirty (30) days of its receipt.

(h) No person who has made or engaged in the performance of a contract in violation of this chapter or a rule or order under this chapter, or who has acquired a purported right under a contract with knowledge of the facts by reason of which its making or performance was in violation, may base a suit on the contract.

(i) A condition, stipulation, or provision binding a person acquiring a security to waive compliance with this chapter or a rule or order under this chapter is void.

(j) The rights and remedies specifically prescribed by this chapter are the only rights and remedies created by this chapter, but are in addition to any other rights or remedies that exist at law or in equity.

SECTION 9. IC 23-2-1-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19.5. (a) If the commissioner determines, after **notice and opportunity for** a hearing, that any person has violated this chapter, the commissioner may, in addition to or in lieu of all other remedies, impose a civil penalty upon any person who has violated this chapter. This penalty may not exceed ten thousand dollars (\$10,000) for each violation of this chapter found to have been committed. An appeal from the decision of the commissioner imposing a civil penalty under this subsection may be taken by any aggrieved party pursuant to section 20 of this chapter.

(b) The commissioner may bring any action in the circuit or superior court of Marion County to enforce payment of any penalty imposed under subsection (a).

(c) Penalties collected under this section shall be deposited in the securities division enforcement account established under section 15(c) of this chapter.

SECTION 10. IC 23-2-1-26 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26. (a) This section applies to a person engaged in the business of providing advice to others, directly or by means of analyses, reports, or other publications, concerning:**

(1) the value of securities; or

(2) the advisability of:

(A) investing in;

(B) purchasing; or

(C) selling;

securities.

(b) A person described in subsection (a) may not:

(1) employ a device, a scheme, or an artifice to defraud a person; or

(2) engage in an act, a practice, or a course of business that operates or would operate as fraud or deceit upon a person.

SECTION 11. IC 23-2-1-27 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 27. An administrative action under this chapter survives the death of a person who might have been a respondent.**

SECTION 12. IC 23-2-5-3, AS AMENDED BY P.L.115-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 3. (a) As used in this chapter, "certificate of registration" means a certificate issued by the commissioner authorizing an individual to engage in origination activities on behalf of a licensee.**

(b) As used in this chapter, "creditor" means a person:

(1) that loans funds of the person in connection with a loan; and

(2) to whom the loan is initially payable on the face of the note or contract evidencing the loan.

(c) As used in this chapter, "license" means a license issued by the commissioner authorizing a person to engage in the loan brokerage

business.

(d) As used in this chapter, "licensee" means a person that is issued a license under this chapter.

(e) As used in this chapter, "loan broker" means any person who, in return for any consideration from any **source procures, attempts to procure, or assists in procuring a loan from a third party or any other person, promises to procure a loan for any person or assist any person in procuring a loan from any third party, or who promises to consider whether or not to make a loan to any person: whether or not the person seeking the loan actually obtains the loan.** "Loan broker" does not include:

(1) any bank, savings bank, trust company, savings association, credit union, or any other financial institution that is:

(A) regulated by any agency of the United States or any state; and

(B) regularly actively engaged in the business of making consumer loans that are not secured by real estate or taking assignment of consumer sales contracts that are not secured by real estate;

(2) any person authorized to sell and service loans for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; issue securities backed by the Government National Mortgage Association; make loans insured by the United States Department of Housing and Urban Development; act as a supervised lender or nonsupervised automatic lender of the United States Department of Veterans Affairs; or act as a correspondent of loans insured by the United States Department of Housing and Urban Development;

(3) (2) any insurance company; or

(4) (3) any person arranging financing for the sale of the person's product.

(f) As used in this chapter, "loan brokerage business" means a person acting as a loan broker.

(g) As used in this chapter, "origination activities" means **establishing the terms or conditions of a loan with a borrower or prospective borrower communication with or assistance of a borrower or prospective borrower in the selection of loan products or terms.**

(h) As used in this chapter, "originator" means a person engaged in origination activities. The term "originator" does not include a person who performs origination activities for any entity that is not a loan broker under subsection (e).

(i) As used in this chapter, "person" means an individual, a partnership, a trust, a corporation, a limited liability company, a limited liability partnership, a sole proprietorship, a joint venture, a joint stock company, or another group or entity, however organized.

(j) As used in this chapter, "registrant" means an individual who is registered to engage in origination activities under this chapter.

(k) As used in this chapter, "ultimate equitable owner" means a person who, directly or indirectly, owns or controls any ownership interest in a person, regardless of whether the person owns or controls the ownership interest through one (1) or more other persons or one (1) or more proxies, powers of attorney, or variances.

SECTION 13. IC 23-2-5-19, AS AMENDED BY P.L.230-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) The following persons are exempt from the requirements of sections 4, 5, 6, 9, ~~10~~, 17, ~~and~~ 18, **and 21** of this chapter:

- (1) Any attorney while engaging in the practice of law.
- (2) Any certified public accountant, public accountant, or accountant practitioner holding a certificate or registered under IC 25-2.1 while performing the practice of accountancy (as defined by IC 25-2.1-1-10).
- (3) Any person licensed as a real estate broker or salesperson under IC 25-34.1 to the extent that the person is rendering loan related services in the ordinary course of a transaction in which a license as a real estate broker or salesperson is required.
- (4) Any broker-dealer, agent, or investment advisor registered under IC 23-2-1.
- (5) Any person that:
 - (A) procures;
 - (B) promises to procure; or
 - (C) assists in procuring;

a loan that is not subject to the Truth in Lending Act (15 U.S.C. 1601 through 1667e).

- (6) **Any community development corporation (as defined in**

IC 4-4-28-2) acting as a subrecipient of funds from the Indiana housing finance authority established by IC 5-20-1-3.

(7) The Indiana housing finance authority.

(8) Any person authorized to:

(A) sell and service a loan for the Federal National Mortgage Association or the Federal Home Loan Mortgage Association;

(B) issue securities backed by the Government National Mortgage Association;

(C) make loans insured by the United States Department of Housing and Urban Development or the United States Department of Agriculture Rural Housing Service;

(D) act as a supervised lender or nonsupervised automatic lender of the United States Department of Veterans Affairs; or

(E) act as a correspondent of loans insured by the United States Department of Housing and Urban Development.

(9) Any person who is a creditor, or proposed to be a creditor, for any loan.

(b) As used in this chapter, "bona fide third party fee" includes fees for the following:

(1) Credit reports, investigations, and appraisals performed by a person who holds a license or certificate as a real estate appraiser under IC 25-34.1-8.

(2) If the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey, and similar purposes.

(3) The services provided by a loan broker in procuring possible business for a lending institution if the fees are paid by the lending institution.

(c) As used in this section, "successful procurement of a loan" means that a binding commitment from a creditor to advance money has been received and accepted by the borrower.

(d) The burden of proof of any exemption or classification provided in this chapter is on the party claiming the exemption or classification.

SECTION 14. IC 23-15-8-3, AS ADDED BY P.L.277-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) If the department of financial institutions

determines that a business entity has violated IC 28-1-20-4, the department of financial institutions shall notify the secretary of state of the violation.

(b) The secretary of state shall commence a proceeding under this section to administratively dissolve a business entity if:

- (1) the name of the business entity contains the word "bank", **"banc", or "banco"**; and
- (2) the department of financial institutions determines that the business entity violates IC 28-1-20-4.

(c) If the secretary of state commences an administrative dissolution under subsection (b), the secretary of state shall serve the business entity with written notice of the determination under subsection (b)(2). The secretary of state shall, at the same time notice is sent to the business entity, provide a copy of the notice to the department of financial institutions.

(d) If a business entity that receives a notice under subsection (c) does not:

- (1) correct the grounds for dissolution; or
- (2) demonstrate to the reasonable satisfaction of the department of financial institutions that the grounds for dissolution do not exist;

at any time after sixty (60) days after service of the notice is perfected, the department of financial institutions shall notify the secretary of state in writing of the continuing violation. After receiving the written notice from the department of financial institutions, the secretary of state shall administratively dissolve the business entity by signing a certificate of dissolution that recites the grounds for dissolution and the effective date of the dissolution. The secretary of state shall file the original certificate of dissolution and serve a copy of the certificate of dissolution on the business entity.

(e) A business entity administratively dissolved under this section may carry on only those activities necessary to wind up and liquidate the business entity's affairs.

SECTION 15. IC 24-4.5-1-102, AS AMENDED BY P.L.258-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 102. Purposes; Rules of Construction)(1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

- (2) The underlying purposes and policies of this article are:
- (a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;
 - (b) to provide rate ceilings to assure an adequate supply of credit to consumers;
 - (c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;
 - (d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;
 - (e) to permit and encourage the development of fair and economically sound consumer credit practices;
 - (f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act; and
 - (g) to make uniform the law including administrative rules among the various jurisdictions.

(3) A reference to a requirement imposed by this article includes reference to a related rule of the department adopted pursuant to this article.

(4) A reference to a federal law in IC 24-4.5 is a reference to the law in effect December 31, ~~2002~~: **2003**.

SECTION 16. IC 24-4.5-1-202 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 202. This article does not apply to the following:

- (1) Extensions of credit to government or governmental agencies or instrumentalities.
- (2) The sale of insurance by an insurer, except as otherwise provided in the chapter on insurance (IC 24-4.5-4).
- (3) Transactions under public utility, municipal utility, or common carrier tariffs if a subdivision or agency of this state or of the United States regulates the charges for the services involved, the charges for delayed payment, and any discount allowed for early payment.
- (4) The rates and charges and the disclosure of rates and charges of a licensed pawnbroker established in accordance with a statute or ordinance concerning these matters.

- (5) A sale of goods, services, or an interest in land in which the goods, services, or interest in land are purchased primarily for a purpose other than a personal, family, or household purpose.
- (6) A loan in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose.
- (7) An extension of credit primarily for a business, a commercial, or an agricultural purpose.
- (8) An installment agreement for the purchase of home fuels in which a finance charge is not imposed.
- (9) Loans made, insured, or guaranteed under a program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).
- (10) Transactions in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(11) A loan made:

- (A) in compliance with the requirements of; and**
- (B) by a community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from; the Indiana housing finance authority established by IC 5-20-1-3.**

SECTION 17. IC 24-4.5-7-104, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 104. "Small loan" means a loan:

- (a) with a principal loan amount that is ~~more than~~ **at least** fifty dollars (\$50) and ~~less than four~~ **not more than five** hundred ~~one~~ dollars ~~(\$401); (\$500);~~ and
- (b) in which the lender holds the borrower's check **or receives the borrower's written authorization to debit the borrower's account** under an agreement, either express or implied, for a specific period before the lender:
 - (i) offers the check for deposit or presentment; or
 - (ii) ~~seeks exercises the~~ **authorization to transfer or withdraw funds from debit** the borrower's account.

SECTION 18. IC 24-4.5-7-105, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 105. "Principal" means the total of:

- (a) the net amount paid to, receivable by, or paid or payable from the account of the ~~consumer~~; **borrower**; and
- (b) to the extent that the payment is deferred, the additional charges permitted by this chapter that are not included in subdivision (a).

SECTION 19. IC 24-4.5-7-107, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 107. "Renewal" refers to a small loan that takes the place of an existing small loan by:

- (a) renewing;
- (b) repaying;
- (c) refinancing; or
- (d) consolidating;

a small loan with the proceeds of another small loan made to the same ~~consumer~~ **borrower** by a lender.

SECTION 20. IC 24-4.5-7-108, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 108. "Consecutive small loan" means a new small loan agreement that the lender enters with the same ~~consumer~~ **borrower** not later than seven (7) calendar days after a previous small loan made to that ~~customer~~ **borrower** is paid in full.

SECTION 21. IC 24-4.5-7-109, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 109. "Paid in full" means the termination of a small loan through:

- (1) the payment of the ~~consumer's~~ **borrower's** check by the drawee bank or authorized electronic transfer;
- (2) the return of a check to a ~~consumer~~ **borrower** who redeems it for consideration;
- (3) **the authorized debiting of the borrower's account**; or
- (4) any other method of termination.

SECTION 22. IC 24-4.5-7-110, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 110. "Monthly ~~net~~ **gross** income" means the income received by the ~~consumer~~ **borrower** in the ~~four (4) week~~ **thirty (30) day** period preceding the ~~consumer's~~ **borrower's** application for a small loan under this chapter and exclusive of any income other than regular ~~net~~ **gross** pay received, or as otherwise determined by the

department.

SECTION 23. IC 24-4.5-7-201, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 201. (1) Finance charges on the first ~~one~~ **two** hundred **fifty** dollars ~~(\$100)~~ **(\$250)** of a small loan are limited to fifteen percent (15%) of the principal.

(2) Finance charges on the amount of a small loan greater than ~~one~~ **two** hundred **fifty** dollars ~~(\$100)~~ **(\$250)** and less than or equal to **four hundred dollars (\$400)** are limited to ~~ten~~ **thirteen** percent ~~(10%)~~ **(13%)** of the amount over ~~one~~ **two** hundred **fifty** dollars ~~(\$100)~~ **(\$250)** and less than **four hundred dollars (\$400)**.

(3) ~~The total amount of finance charges may not exceed thirty-five dollars (\$35).~~ **Finance charges on the amount of the small loan greater than four hundred dollars (\$400) and less than or equal to five hundred dollars (\$500) are limited to ten percent (10%) of the amount over four hundred dollars (\$400) and less than five hundred dollars (\$500).**

SECTION 24. IC 24-4.5-7-202, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 202. (1) Notwithstanding any other law, ~~only the following fees the only fee that~~ may be contracted for and received by the lender on a small loan ~~or subsequent refinancing:~~

(a) ~~The parties may contract for a delinquency charge of not more than five dollars (\$5) on any installment not paid in full within ten (10) days after its scheduled due date.~~

(b) ~~A delinquency charge under this section may be collected only once on an installment, however long it remains in default. A delinquency charge may be collected any time after it accrues.~~

(2) ~~an additional charge may be made is a charge,~~ not to exceed twenty dollars (\$20), for each:

(a) return by a bank or other depository institution of a:

(i) dishonored check;

(ii) negotiable order of withdrawal; or

(iii) share draft issued by the ~~consumer;~~ **borrower;** or

(b) **time an authorization to debit the borrower's account is dishonored.**

This additional charge may be assessed one (1) time regardless of how many times a check ~~or an authorization to debit the borrower's~~

account may be submitted by the lender and dishonored.

SECTION 25. IC 24-4.5-7-301, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 301. (1) For purposes of this section, the lender shall disclose to the **consumer borrower** to whom credit is extended with respect to a small loan the information required by the Federal Consumer Credit Protection Act.

(2) In addition to the requirements of subsection (1), the lender must conspicuously display in bold type a notice to the public both in the lending area of each business location and in the loan documents the following statement:

"WARNING: A small loan is not intended to meet long term financial needs. A small loan should be used only to meet short term cash needs. ~~Renewing the small loan rather than paying the debt in full will require additional finance charges.~~ The cost of your small loan may be higher than loans offered by other lending institutions. Small loans are regulated by the State of Indiana Department of Financial Institutions.

A **consumer borrower** may rescind a small loan without cost not later than the end of the business day immediately following the day on which the small loan was made. To rescind a small loan, a **consumer borrower** must inform the lender that the **consumer borrower** wants to rescind the small loan, and the **consumer borrower** must return the cash amount of the principal of the small loan to the lender."

(3) The statement required in subsection (2) must be in:

- (a) 14 point bold face type in the loan documents; and
- (b) not less than one (1) inch bold print in the lending area of the business location.

(4) **When a borrower enters into a small loan, the lender shall provide the borrower with a pamphlet approved by the department that describes:**

- (a) **the availability of debt management and credit counseling services; and**
- (b) **the borrower's rights and responsibilities in the transaction.**

SECTION 26. IC 24-4.5-7-401, AS AMENDED BY P.L.258-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: Sec. 401. (1) ~~Except as provided in subsection (2);~~ A small loan may not be made for a term of less than fourteen (14) days.

(2) After the ~~consumer's third~~ **borrower's fifth** consecutive small loan, another small loan may not be made to that ~~consumer~~ **borrower** within seven (7) days after the ~~due~~ date of the ~~third~~ **fifth** consecutive small loan. ~~unless the new small loan is for a term of twenty-eight (28) days or longer.~~ **After the borrower's fifth consecutive small loan, the balance must be paid in full. However, the borrower and lender may agree to enter into a simple interest loan, payable in installments, under IC 24-4.5-3 within seven (7) days after the due date of the fifth consecutive small loan.**

SECTION 27. IC 24-4.5-7-402, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 402. (1) A lender is prohibited from making a small loan to a ~~consumer~~ **borrower** if the total payable amount of the small loan exceeds ~~twenty~~ **fifteen** percent (~~20%~~) (**15%**) of the ~~consumer's borrower's~~ monthly ~~net~~ **gross** income.

(2) A small loan may be secured by only one (1) check or ~~electronic authorization to~~ **debit the borrower's account** per small loan. The check or electronic debit may not exceed the amount advanced to or on behalf of the ~~consumer~~ **borrower** plus loan finance charges contracted for and permitted.

(3) A ~~consumer~~ **borrower** may make partial payments in any amount on the small loan without charge at any time before the due date of the small loan. After each payment is made on a small loan, whether the payment is in part or in full, the lender shall give a signed and dated receipt to the ~~consumer~~ **borrower** making a payment showing the amount paid and the balance due on the small loan.

(4) The lender shall provide to each ~~consumer~~ **borrower** a copy of the required loan documents before the disbursement of the loan proceeds.

(5) A ~~consumer~~ **borrower** may rescind a small loan without cost not later than the end of the business day immediately following the day on which the small loan was made. To rescind a small loan, a ~~consumer~~ **borrower** must:

- (a) inform the lender that the ~~consumer~~ **borrower** wants to rescind the small loan; and
- (b) return the cash amount of the principal of the small loan to the

lender.

(6) A lender shall not enter into a renewal with a borrower. If a loan is paid in full, a subsequent loan is not a renewal.

SECTION 28. IC 24-4.5-7-404, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 404. (1) **As used in this section, "commercially reasonable method of verification" means one (1) or more private consumer credit reporting services that the department determines to be capable of providing a lender with adequate verification information necessary to ensure compliance with subsection (4).**

(2) With respect to a small loan, ~~or subsequent refinancing~~, no lender may permit a person to become obligated under more than one (1) loan agreement with the lender at any time.

~~(2)~~ **(3)** A lender shall not make a small loan ~~or subsequent refinancing~~ that, when combined with another outstanding small loan owed to another lender, exceeds a total of ~~four~~ **five** hundred dollars ~~(\$400)~~ **(\$500)** when the face amounts of the checks written ~~or debits authorized~~ in connection with each loan are combined into a single sum. A lender shall not make a small loan to a ~~consumer borrower~~ who has two (2) or more small loans outstanding, regardless of the total value of the small loans.

~~(3)~~ **(4)** A lender complies with subsection ~~(2)~~ **(3)** if the ~~consumer borrower~~ represents in writing that the ~~consumer borrower~~ does not have any outstanding small loans with the lender, ~~or with any other~~ **another** lender, **an affiliate of the lender or another lender, or a separate entity involved in a business association with the lender or another lender in making small loans**, and the lender independently verifies the accuracy of the ~~consumer's borrower's~~ written representation through ~~a commercially reasonable means:~~ **method of verification**. A lender's method of verifying whether a ~~consumer borrower~~ has any outstanding small loans will be considered commercially reasonable if the method includes a manual investigation or an electronic query of:

- (a) the lender's own records, including both records maintained at the location where the ~~consumer borrower~~ is applying for the transaction and records maintained at other locations within the state that are owned and operated by the lender; and
- (b) available ~~department approved~~ **third party** databases.

(5) The department shall monitor the effectiveness of private consumer credit reporting services in providing the verification information required under subsection (4). If the department determines that one (1) or more commercially reasonable methods of verification are available, the department shall:

(a) provide reasonable notice to all lenders identifying the commercially reasonable methods of verification that are available; and

(b) require each lender to use one (1) of the identified commercially reasonable methods of verification as a means of complying with subsection (4).

(4) (6) The excess amount of loan finance charge provided for in agreements in violation of this section is an excess charge for purposes of the provisions concerning effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions concerning civil actions by the department (IC 24-4.5-6-113).

SECTION 29. IC 24-4.5-7-406, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 406. An agreement with respect to a small loan may not provide for charges as a result of default by the ~~consumer~~ **borrower** other than those authorized by this chapter. A provision in violation of this section is unenforceable.

SECTION 30. IC 24-4.5-7-409, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 409. (1) This section applies to licensees and unlicensed persons.

(2) The following apply to small loans only when a check or an authorization to debit a borrower's account is used to defraud another person:

(a) IC 26-1-3.1-502.5 (surcharge after dishonor).

(b) IC 26-2-7 (penalties for stopping payments or permitting dishonor of checks and drafts).

(c) IC 34-4-30 (before its repeal).

(d) IC 34-24-3 ~~and~~ (treble damages allowed in certain civil actions by crime victims).

(e) IC 35-43-5 ~~apply to small loans only when a check is used to defraud another person: (forgery, fraud, and other deceptions).~~

(f) IC 24-4.5-3-404 (attorney's fees) does not apply to a small

loan.

(3) A contractual agreement in a small loan transaction must include the language of subsection (2) in 14 point bold type.

(4) A person who violates this chapter:

(a) is subject to a civil penalty up to ~~one~~ **two** thousand dollars ~~(\$1,000)~~ **(\$2,000)** imposed by the department;

(b) is subject to the remedies provided in IC 24-4.5-5-202;

(c) commits a deceptive act under IC 24-5-0.5 and is subject to the penalties listed in IC 24-5-0.5;

(d) has no right to collect, receive, or retain any principal, interest, or other charges from a small loan; however, this subdivision does not apply if the violation is the result of an accident or bona fide error of computation; and

(e) is liable to the ~~consumer~~ **borrower** for actual damages, statutory damages of ~~one~~ **two** thousand dollars ~~(\$1,000)~~ **(\$2,000)** per violation, costs, and attorney's fees; however, this subdivision does not apply if the violation is the result of an accident or bona fide error of computation.

(5) The department may sue:

(a) to enjoin any conduct that constitutes or will constitute a violation of this chapter; and

(b) for other equitable relief.

(6) The remedies provided in this section are cumulative but are not intended to be the exclusive remedies available to a ~~consumer~~ **borrower**. A ~~consumer~~ **borrower** is not required to exhaust any administrative remedies under this section or any other applicable law.

SECTION 31. IC 24-4.5-7-410, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 410. A lender making small loans shall not commit nor cause to be committed any of the following acts:

(a) Threatening to use or using the criminal process in any state to collect on a small loan.

(b) Threatening to take action against a ~~consumer~~ **borrower** that is prohibited by this chapter.

(c) Making a misleading or deceptive statement regarding a small loan or a consequence of taking a small loan.

(d) Contracting for and collecting attorney's fees on small loans made under this chapter.

- (e) Altering the date or any other information on a check **or an authorization to debit the borrower's account** held as security.
- (f) Using a device or agreement that **the department determines** would have the effect of charging or collecting more fees, charges, or interest than allowed by this chapter, including, but not limited to:
 - (i) entering a different type of transaction with the ~~consumer~~; **borrower**;
 - (ii) entering into a sales/leaseback arrangement;
 - (iii) catalog sales; ~~or~~
 - (iv) **entering into transactions in which a customer receives a purported cash rebate that is advanced by someone offering Internet content services, or some other product or service, when the cash rebate does not represent a discount or an adjustment of the purchase price for the product or service; or**
 - (v) entering any other transaction with the ~~consumer~~ **borrower** that is designed to evade the applicability of this chapter.
- (g) Engaging in unfair, deceptive, or fraudulent practices in the making or collecting of a small loan.
- (h) Charging to cash a check representing the proceeds of a small loan.
- (i) Except as otherwise provided in this chapter:
 - (i) accepting the proceeds of a new small loan as payment of an existing small loan provided by the same lender; or
 - (ii) renewing, refinancing, or consolidating a small loan with the proceeds of another small loan made by the same lender.
- (j) Including any of the following provisions in a loan document:
 - (i) A hold harmless clause.
 - (ii) A confession of judgment clause.
 - (iii) A mandatory arbitration clause, unless the terms and conditions of the arbitration have been approved by the director of the department.
 - (iv) An assignment of or order for payment of wages or other compensation for services.
 - (v) A provision in which the ~~consumer~~ **borrower** agrees not to assert a claim or defense arising out of contract.

(vi) A waiver of any provision of this chapter.

(k) Selling insurance of any kind in connection with the making or collecting of a small loan.

(l) Entering into a renewal with a borrower.

SECTION 32. IC 24-4.5-7-412, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 412. Upon the receipt of a check from a ~~consumer~~ **borrower** for a small loan, the lender shall immediately stamp the back of the check with an endorsement that states:

"This check is being negotiated as part of a small loan under IC 24-4.5, and any holder of this check takes it subject to the claims and defenses of the maker."

SECTION 33. IC 24-9 IS ADDED TO THE INDIANA CODE AS A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]:

ARTICLE 9. HOME LOAN PRACTICES

Chapter 1. Application

Sec. 1. Except for IC 24-9-3-7(3), this article does not apply to:

(1) a loan made or acquired by a person organized or chartered under the laws of this state, any other state, or the United States relating to banks, trust companies, savings associations, savings banks, credit unions, or industrial loan and investment companies; or

(2) a loan:

(A) that can be purchased by the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, or the Federal Home Loan Bank;

(B) to be insured by the United States Department of Housing and Urban Development;

(C) to be guaranteed by the United States Department of Veterans Affairs;

(D) to be made or guaranteed by the United States Department of Agriculture Rural Housing Service;

(E) to be funded by the Indiana housing finance authority; or

(F) with a principal amount that exceeds the conforming loan size limit for a single family dwelling as established by the Federal National Mortgage Association.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Benchmark rate" means the interest rate established under Section 152 of the Federal Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1602 (aa)) and the regulations adopted under that act by the Federal Reserve Board, including 12 CFR 226.32 and the Official Staff Commentary to the regulations as amended.

Sec. 3. "Bona fide discount points" means loan discount points that:

- (1) are knowingly paid by the borrower;
- (2) are paid for the express purpose of reducing the interest rate applicable to the loan;
- (3) reduce the interest rate from an interest rate that does not exceed the benchmark rate; and
- (4) are recouped within the first four (4) years of the scheduled loan payments;

if the reduction in the interest rate that is achieved by the payment of the loan discount points reduces the interest charged on the scheduled payments so that the borrower's dollar amount of savings in interest during the first four (4) years of the loan is equal to or greater than the dollar amount of loan discount points paid by the borrower.

Sec. 4. "Borrower" means a person obligated to repay a home loan, including a coborrower, cosigner, or guarantor.

Sec. 5. "Bridge loan" means temporary or short term financing with a maturity of less than eighteen (18) months that requires payments of interest only until the entire unpaid balance is due and payable.

Sec. 6. (a) "Creditor" means:

- (1) a person:
 - (A) who regularly extends consumer credit that is subject to a finance charge or that is payable by written agreement in more than four (4) installments; and
 - (B) to whom the debt arising from a home loan transaction is initially payable; or
- (2) a person who brokers a home loan, including a person who:

- (A) directly or indirectly solicits, processes, places, or negotiates home loans for others;
- (B) offers to solicit, process, place, or negotiate home loans for others; or
- (C) closes home loans that may be in the person's own name with funds provided by others and that are thereafter assigned to the person providing funding for the loans.

(b) The term does not include:

- (1) a servicer;
- (2) a state or local housing finance authority;
- (3) any other state or local governmental or quasi-governmental entity; or
- (4) an attorney providing legal services in association with the closing of a home loan.

Sec. 7. (a) "Deceptive act" means an act or a practice as part of a consumer credit mortgage transaction involving real property located in Indiana in which a person at the time of the transaction knowingly or intentionally:

- (1) makes a material misrepresentation; or
- (2) conceals material information regarding the terms or conditions of the transaction.

(b) For purposes of this section, "knowingly" means having actual knowledge at the time of the transaction.

Sec. 8. (a) "High cost home loan" means a home loan with:

- (1) a trigger rate that exceeds the benchmark rate; or
- (2) total points and fees that exceed:
 - (A) five percent (5%) of the loan principal for a home loan having a loan principal of at least forty thousand dollars (\$40,000); or
 - (B) six percent (6%) of the loan principal for a home loan having a loan principal of less than forty thousand dollars (\$40,000).

(b) Beginning July 1, 2006, the dollar amounts set forth in this section are subject to change at the times and according to the procedure set forth in the provisions of IC 24-4.5-1-106 concerning the adjustment of dollar amounts in IC 24-4.5.

Sec. 9. "Home loan" means a loan, other than an open end credit plan or a reverse mortgage transaction, that is secured by a

mortgage or deed of trust on real estate in Indiana on which there is located or will be located a structure or structures:

- (1) designed primarily for occupancy of one (1) to four (4) families; and
- (2) that is or will be occupied by a borrower as the borrower's principal dwelling.

Sec. 10. (a) Except as provided in subsection (b), "points and fees" means the total of the following:

- (1) Points and fees (as defined in 12 CFR 226.32(b)(1) on January 1, 2004).
- (2) All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in the broker's own name.

As used in subdivision (2), "compensation" does not include a payment included in subdivision (1).

(b) The term does not include the following:

- (1) Bona fide discount points.
- (2) An amount not to exceed one and one-half (1 1/2) points in indirect broker compensation, if the terms of the loan do not include a prepayment penalty that exceeds two percent (2%) of the home loan principle.
- (3) Reasonable fees paid to an affiliate of the creditor.
- (4) Interest prepaid by the borrower for the month in which the home loan is closed.

Sec. 11. "Political subdivision" means a municipality, school district, public library, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or any other type of local governmental corporate entity.

Sec. 12. "Rate" means the interest rate charged on a home loan, based on an annual simple interest yield.

Sec. 13. "Total loan amount" means the principal of the home loan minus the points and fees that are included in the principal amount of the loan.

Sec. 14. "Trigger rate" means:

- (1) for fixed rate home loans in which the interest rate will not vary during the term of the loan, the rate as of the date of closing;

(2) for home loans in which the interest varies according to an index, the sum of the index rate as of the date of closing plus the maximum margin permitted at any time under the loan agreement; or

(3) for all other home loans in which the rate may vary at any time during the term of the loan, the maximum rate that may be charged during the term of the home loan.

Chapter 3. Prohibited Lending Practices Generally

Sec. 1. (a) A creditor making a home loan may not finance, directly or indirectly, any:

(1) credit life insurance;

(2) credit disability insurance;

(3) credit unemployment insurance;

(4) credit property insurance; or

(5) payments directly or indirectly for any cancellation suspension agreement or contract.

(b) Insurance premiums, debt cancellation fees, or suspension fees calculated and paid on a monthly basis are not considered to be financed by the creditor for purposes of this chapter.

Sec. 2. (a) A creditor may not knowingly or intentionally replace or consolidate a zero (0) interest rate or other subsidized low rate loan made by a governmental or nonprofit lender with a high cost home loan within the first ten (10) years of the subsidized low rate loan unless the current holder of the loan consents in writing to the refinancing.

(b) For purposes of this section, a "subsidized low rate loan" is a loan that carries a current interest rate of at least two (2) percentage points below the current yield on treasury securities with a comparable maturity. If the loan's current interest rate is either a discounted introductory rate or a rate that automatically steps up over time, the fully indexed rate or the fully stepped up rate, as appropriate, should be used instead of the current rate to determine whether a loan is a subsidized low rate loan.

(c) Each mortgage or deed of trust securing a zero (0) interest rate or other subsidized low rate loan executed after January 1, 2005, must prominently display the following on the face of the instrument:

"This instrument secures a zero (0) interest rate or other subsidized low rate loan subject to IC 24-9-3-2."

(d) A creditor may reasonably rely on the presence or absence of the statement described in subsection (c) on the face of an instrument executed after January 1, 2005, as conclusive proof of the existence or nonexistence of a zero (0) interest rate or other subsidized low rate loan.

Sec. 3. A creditor may not recommend or encourage default on an existing loan or other debt before and in connection with the closing or planned closing of a home loan that refinances all or part of the existing loan or debt.

Sec. 4. A creditor shall treat each payment made by a borrower in regard to a home loan as posted on the same business day as the payment was received by the creditor, servicer, or creditor's agent, or at the address provided to the borrower by the creditor, servicer, or creditor's agent for making payments.

Sec. 5. (a) A home loan agreement may not contain a provision that permits the creditor, in the creditor's sole discretion, to accelerate the indebtedness without material cause.

(b) This section does not prohibit acceleration of a home loan in good faith due to the borrower's failure to abide by the material terms of the loan.

Sec. 6. (a) A creditor may not charge a fee for informing or transmitting to a person the balance due to pay off a home loan or to provide a written release upon prepayment. A creditor must provide a payoff balance not later than ten (10) business days after the request is received by the creditor.

(b) For purposes of this section, "fee" does not include actual charges incurred by a creditor for express or priority delivery requested by the borrower of home loan documents to the borrower.

Sec. 7. A person may not:

- (1) divide a loan transaction into separate parts with the intent of evading a provision of this article;
- (2) structure a home loan transaction as an open-end loan with the intent of evading the provisions of this article if the loan would be a high cost home loan if the home loan had been structured as a closed-end loan; or
- (3) engage in a deceptive act in connection with a home loan.

Sec. 8. A person seeking to enforce section 7(3) of this chapter, may not knowingly or intentionally intimidate, coerce, or harass

another person.

Sec. 9. It is unlawful for a creditor to discriminate against any applicant with respect to any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, or age, if the applicant has the ability to contract.

Chapter 4. Additional Prohibitions for High Cost Home Loans

Sec. 1. The following additional limitations and prohibited practices apply to a high cost home loan:

(1) A creditor making a high cost home loan may not directly or indirectly finance any points and fees.

(2) Prepayment fees or penalties may not be included in the loan documents for a high cost home loan or charged to the borrower if the fees or penalties exceed in total two percent (2%) of the high cost home loan amount prepaid during the first twenty-four (24) months after the high cost home loan closing.

(3) A prepayment penalty may not be contracted for after the second year following the high cost home loan closing.

(4) A creditor may not include a prepayment penalty fee in a high cost home loan unless the creditor offers the borrower the option of choosing a loan product without a prepayment fee. The terms of the offer must be made in writing and must be initialed by the borrower. The document containing the offer must be clearly labeled in large bold type and must include the following disclosure:

"LOAN PRODUCT CHOICE

I was provided with an offer to accept a product both with and without a prepayment penalty provision. I have chosen to accept the product with a prepayment penalty."

(5) A creditor shall not sell or otherwise assign a high cost home loan without furnishing the following statement to the purchaser or assignee:

"NOTICE: This is a loan subject to special rules under IC 24-9. Purchasers or assignees may be liable for all claims and defenses with respect to the loan that the borrower could assert against the lender."

(6) A mortgage or deed of trust that secures a high cost home loan at the time the mortgage or deed of trust is recorded must prominently display the following on the face of the

instrument:

"This instrument secures a high cost home loan as defined in IC 24-9-2-8."

(7) A creditor making a high cost home loan may not finance, directly or indirectly, any life or health insurance.

Sec. 2. A creditor may not knowingly or intentionally:

(1) refinance a high cost home loan by charging points and fees on the part of the proceeds of the new high cost home loan that is used to refinance the existing high cost loan within four (4) years of the origination of the existing high cost home loan; or

(2) divide a home loan transaction into multiple transactions with the effect of evading this article. Where multiple transactions are involved, the total points and fees charged in all transactions shall be considered when determining whether the protections of this section apply.

Sec. 3. Notwithstanding IC 24-4.5-3-402, a high cost home loan agreement may not require a scheduled payment that is more than twice as large as the average of earlier scheduled monthly payments under the high cost home loan agreement unless the payment becomes due and payable at least one hundred twenty (120) months after the date of the high cost home loan. This prohibition does not apply if:

(1) the payment schedule is adjusted to account for the seasonal or irregular income of the borrower; or

(2) the loan is a bridge loan connected with or related to the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

Sec. 4. (a) Except as provided in subsection (b), a high cost home loan may not include payment terms under which the outstanding principal balance will increase at any time over the course of the high cost home loan because the regular periodic payments do not cover the full amount of interest due.

(b) This section does not apply to a temporary forbearance that is requested by a borrower regarding a high cost home loan.

Sec. 5. A high cost home loan may not contain a provision that increases the interest rate after default. However, this section does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the high cost home loan

documents if the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

Sec. 6. A high cost home loan may not include terms under which more than two (2) periodic payments required under the high cost home loan are consolidated and paid in advance from the high cost home loan proceeds provided to the borrower.

Sec. 7. A creditor may not make a high cost home loan without first providing the borrower information to facilitate contact with a nonprofit counseling agency certified by:

(1) the United States Department of Housing and Urban Development; or

(2) the department of commerce under IC 4-4-3-8(b)(15); at the same time as the good faith estimates are provided to the borrower in accordance with the requirements of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) as amended.

Sec. 8. (a) A creditor may not make a high cost home loan without regard to repayment ability.

(b) If a creditor presents evidence that the creditor followed commercially reasonable practices in determining the borrower's debt to income ratio, there is a rebuttable presumption that the creditor made the high cost home loan with due regard to repayment ability. For purposes of this section, there is a rebuttable presumption that the borrower's statement of income provided to the creditor is true and complete.

(c) Commercially reasonable practices include the use of:

(1) the debt to income ratio:

(A) listed in 38 CFR 36.4337(c)(1); and

(B) defined in 38 CFR 36.4337(d); and

(2) the residual income guidelines established under:

(A) 38 CFR 36.4337(e); and

(B) United States Department of Veterans Affairs form 26-6393.

Sec. 9. A creditor may not pay a contractor under a home improvement contract from the proceeds of a high cost home loan unless:

(1) the creditor is presented with a signed and dated completion certificate showing that the home improvements have been completed; and

(2) the instrument is payable to the borrower or jointly to the borrower and the contractor or, at the election of the borrower, through a third party escrow agent under a written agreement signed by the borrower, the creditor, and the contractor before the disbursement.

Sec. 10. A creditor may not charge a borrower any fees or other charges to modify, renew, extend, or amend a high cost home loan or to defer a payment due under the terms of a high cost home loan.

Sec. 11. A creditor may not make a high cost home loan unless the creditor has given the following notice, in writing, to the borrower not later than the time that notice is required under 12 CFR 226.31(c):

"NOTICE TO BORROWER

YOU SHOULD BE AWARE THAT YOU MIGHT BE ABLE TO OBTAIN A LOAN AT A LOWER COST. YOU SHOULD COMPARE LOAN RATES, COSTS, AND FEES. MORTGAGE LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED, AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE, COSTS, AND FEES COULD ALSO VARY BASED ON WHICH CREDITOR OR BROKER YOU SELECT.

IF YOU ACCEPT THE TERMS OF THIS LOAN, THE CREDITOR WILL HAVE A MORTGAGE LIEN ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU HAVE PAID IF YOU DO NOT MEET YOUR PAYMENT OBLIGATIONS UNDER THE LOAN.

YOU SHOULD CONSULT AN ATTORNEY AND A QUALIFIED INDEPENDENT CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISER REGARDING THE RATE, FEES, AND PROVISIONS OF THIS MORTGAGE LOAN BEFORE YOU PROCEED. A LIST OF QUALIFIED COUNSELORS IS AVAILABLE FROM THE INDIANA DEPARTMENT OF COMMERCE. YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN

AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS DISCLOSURE OR HAVE SIGNED A LOAN APPLICATION. REMEMBER, PROPERTY TAXES AND HOMEOWNER'S INSURANCE ARE YOUR RESPONSIBILITY. NOT ALL CREDITORS PROVIDE ESCROW SERVICES FOR THESE PAYMENTS. YOU SHOULD ASK YOUR CREDITOR ABOUT THESE SERVICES.

ALSO, YOUR PAYMENTS ON EXISTING DEBTS CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT ACCEPT ANY ADVICE TO IGNORE YOUR REGULAR PAYMENTS TO YOUR EXISTING CREDITORS."

Sec. 12. Without regard to whether a borrower is acting individually or on behalf of others similarly situated, a provision of a high cost home loan agreement that:

- (1) requires arbitration of a claim or defense;**
- (2) allows a party to require a borrower to assert a claim or defense in a forum that is:**

(A) less convenient;

(B) more costly; or

(C) more dilatory;

for the resolution of the dispute than an Indiana court in which the borrower may otherwise bring a claim or defense;
or

- (3) limits in any way any claim or defense the borrower may have;**

is unconscionable and void.

Chapter 5. Claims, Defenses, Remedies

Sec. 1. (a) A person who purchases or is otherwise assigned a high cost home loan is subject to all affirmative claims and any defenses with respect to the high cost home loan that the borrower could assert against a creditor or broker of the high cost home loan. However, this section does not apply if the purchaser or assignee demonstrates by a preponderance of the evidence that a reasonable person exercising ordinary due diligence could not determine that the loan was a high cost home loan. A purchaser or an assignee is presumed to have exercised reasonable due diligence if the purchaser or assignee:

(1) has in place at the time of the purchase or assignment of the subject loans, policies that expressly prohibit the purchase or acceptance of the assignment of any high cost home loans;
(2) requires by contract that a seller or an assignor of home loans to the purchaser or assignee represents and warrants to the purchaser or assignee that either:

(A) the seller or assignor will not sell or reassign any high cost home loans to the purchaser or assignee; or

(B) the seller or assignor is a beneficiary of a representation and warranty from a previous seller or assignor to that effect;

(3) exercises reasonable due diligence:

(A) at the time of purchase or assignment of home loans; or

(B) within a reasonable period after the purchase or assignment of home loans;

intended by the purchaser or assignee to prevent the purchaser or assignee from purchasing or taking assignment of any high cost home loans; or

(4) satisfies the requirements of subdivisions (1) and (2) and establishes that a reasonable person exercising ordinary due diligence could not determine that the loan was a high cost home loan based on the:

(A) documentation required by the federal Truth in Lending Act (15 U.S.C. 1601 et seq.); and

(B) itemization of the amount financed and other disbursement disclosures.

(b) A borrower acting only in an individual capacity may assert against the creditor or any subsequent holder or assignee of a high cost home loan:

(1) a violation of IC 24-9-4-2 as a defense, claim, or counterclaim, after:

(A) an action to enjoin foreclosure or to preserve or obtain possession of the dwelling that secures the loan is initiated;

(B) an action to collect on the loan or foreclose on the collateral securing the loan is initiated; or

(C) the loan is more than sixty (60) days in default; within three (3) years after the closing of a home loan;

(2) a violation of this article in connection to the high cost

home loan as a defense, claim, or counterclaim in an original action within five (5) years after the closing of a high cost home loan; and

(3) any defense, claim, counterclaim, or action to enjoin foreclosure or preserve or obtain possession of the home that secures the loan, including a violation of this article after:

(A) an action to collect on the loan or foreclose on the collateral securing the loan is initiated;

(B) the debt arising from the loan is accelerated; or

(C) the loan is more than sixty (60) days in default;

at any time during the term of a high cost home loan.

(c) In an action, a claim, or a counterclaim brought under subsection (b), the borrower may recover only amounts required to reduce or extinguish the borrower's liability under a home loan plus amounts required to recover costs, including reasonable attorney's fees.

(d) The provisions of this section are effective notwithstanding any other provision of law. This section shall not be construed to limit the substantive rights, remedies, or procedural rights available to a borrower against any creditor, assignee, or holder under any other law. The rights conferred on borrowers by subsections (a) and (b) are independent of each other and do not limit each other.

Sec. 2. (a) If a creditor asserts that grounds for acceleration under the terms of a high cost home loan exist and requires the payment in full of all sums secured by the security instrument, the borrower or a person authorized to act on the borrower's behalf at any time before the title is transferred by means of foreclosure, judicial proceeding and sale, or otherwise may cure the default and reinstate the high cost home loan by tendering the amount or performance as specified in the security instrument.

(b) If the borrower cures the default on a high cost home loan, the original loan terms shall be reinstated, and any acceleration of any obligation under the security instrument or note arising from the default is nullified as of the date of the cure.

Sec. 3. (a) A creditor making a high cost home loan that has the right to foreclose must use the judicial foreclosure procedures of the state in which the property securing the high cost home loan is located. The borrower has the right to assert in the proceeding the

nonexistence of a default and any other claim or defense to acceleration and foreclosure, including any claim or defense based on any violations of this article.

(b) This section is not intended and shall not be construed to allow any claim or defense otherwise barred by any statute of limitation or repose.

Sec. 4. (a) A person who violates this article is liable to a person who is a party to the home loan transaction that gave rise to the violation for the following:

(1) Actual damages, including consequential damages. A person is not required to demonstrate reliance in order to receive actual damages.

(2) Statutory damages equal to two (2) times the finance charges agreed to in the home loan agreement.

(3) Costs and reasonable attorney's fees.

(b) A person may be granted injunctive, declaratory, and other equitable relief as the court determines appropriate in an action to enforce compliance with this chapter.

(c) The right of rescission granted under 15 U.S.C. 1601 et seq. for a violation of law is available to a person acting only in an individual capacity by way of recoupment as a defense against a party foreclosing on a home loan at any time during the term of the loan. Any recoupment claim asserted under this provision is limited to the amount required to reduce or extinguish the person's liability under the home loan plus amounts required to recover costs, including reasonable attorney's fees. This article shall not be construed to limit the recoupment rights available to a person under any other law.

(d) The remedies provided in this section are cumulative but are not intended to be the exclusive remedies available to a person. Except as provided in subsection (e), a person is not required to exhaust any administrative remedies under this article or under any other applicable law.

(e) Before bringing an action regarding an alleged deceptive act under this chapter, a person must:

(1) notify the homeowner protection unit established by IC 4-6-12-2 of the alleged violation giving rise to the action; and

(2) allow the homeowner protection unit at least ninety (90)

days to institute appropriate administrative and civil action to redress a violation.

(f) An action under this chapter must be brought within five (5) years after the date that the person knew, or by the exercise of reasonable diligence should have known, of the violation of this article.

(g) An award of damages under subsection (a) has priority over a civil penalty imposed under this article.

Sec. 5. (a) If the creditor or an assignee establishes by a preponderance of evidence that a violation of this article is unintentional or the result of a bona fide error of law or fact notwithstanding the maintenance of procedures reasonably adopted to avoid any such violation or error, the validity of the transaction is not affected, and no liability is imposed under section 4 of this chapter except in the case of a refusal to make a refund.

(b) Except as provided in subsection (c), a creditor in a high cost home loan who in good faith fails to comply with this article is not considered to have violated this article if the creditor does the following before receiving notice of the failure from the borrower:

(1) Not later than ninety (90) days after the date of the loan closing:

(A) makes appropriate restitution to the borrower of any amounts collected in error; and

(B) takes necessary action to make all appropriate adjustments to the loan to correct the error.

(2) Not later than one hundred twenty (120) days after the date of the loan closing, notifies the borrower of:

(A) the error; and

(B) the amount of the required restitution or adjustment.

(c) Subsection (b) does not apply unless the creditor establishes that the compliance failure was not intentional and resulted from a bona fide error of fact or law, notwithstanding the maintenance of procedures reasonably adopted to avoid the errors.

Sec. 6. The rights conferred by this article are in addition to rights granted under any other law.

Chapter 6. Reporting Requirements

Sec. 1. (a) A servicer of a high cost home loan shall report at least once each calendar quarter to a nationally recognized consumer credit reporting agency both the favorable and

unfavorable payment history information of the borrower on payments due to the creditor on a high cost home loan.

(b) This section does not prohibit a servicer from agreeing with the borrower not to report specified payment history information in the event of a resolved or an unresolved dispute with a borrower and does not apply to high cost home loans held or serviced by a lender for less than ninety (90) days.

Chapter 7. State Power to Regulate Lending

Sec. 1. The state is the sole regulator of the business of originating, granting, servicing, and collecting loans and other forms of credit in Indiana and the manner in which the business is conducted. This regulation preempts all other regulation of these activities by any political subdivision.

Sec. 2. Political subdivisions may not:

(1) enact, issue, or enforce ordinances, resolutions, regulations, orders, requests for proposals, or requests for bids pertaining to financial or lending activities, including ordinances, resolutions, and rules that disqualify persons from doing business with a municipality and that are based upon lending terms or practices; or

(2) impose reporting requirements or any other obligations upon persons regarding financial services or lending practices or upon subsidiaries or affiliates that:

(A) are subject to the jurisdiction of the department of financial institutions;

(B) are subject to the jurisdiction or regulatory supervision of the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Federal Deposit Insurance Corporation, the Federal Trade Commission, or the United States Department of Housing and Urban Development;

(C) are chartered by the United States Congress to engage in secondary market mortgage transactions;

(D) are created by the Indiana housing finance authority; or

(E) originate, purchase, sell, assign, securitize, or service property interests or obligations created by financial transactions or loans made, executed, originated, or

purchased by persons referred to in clauses (A), (B), (C), or (D).

Chapter 8. Penalties and Enforcement

Sec. 1. A person who knowingly or intentionally violates this article commits:

- (1) a Class A misdemeanor; and
- (2) an act that is actionable by the attorney general under IC 24-5-0.5 and is subject to the penalties listed in IC 24-5-0.5.

Sec. 2. (a) Beginning July 1, 2005, the attorney general and the attorney general's homeowner protection unit established under IC 4-6-12 shall enforce this article for any violation occurring within five (5) years after the making of a home loan.

(b) The attorney general may refer a matter under section 1 of this chapter to a prosecuting attorney for enforcement.

Sec. 3. (a) The attorney general may bring an action to enjoin a violation of this article. A court in which the action is brought may:

- (1) issue an injunction;
- (2) order a person to make restitution;
- (3) order a person to reimburse the state for reasonable costs of the attorney general's investigation and prosecution of the violation of this article; and
- (4) impose a civil penalty of not more than ten thousand dollars (\$10,000) per violation.

(b) A person who violates an injunction under this section is subject to a civil penalty of not more than ten thousand dollars (\$10,000) per violation.

(c) The court that issues an injunction retains jurisdiction over a proceeding seeking the imposition of a civil penalty under this section.

Sec. 4. The attorney general may file complaints with any of the agencies listed in IC 4-6-12-4 to implement this chapter.

Chapter 9. Fees

Sec. 1. The county recorder shall assess a fee of three dollars (\$3) under IC 36-2-7-10(b)(11) for each mortgage recorded. The fee shall be paid to the county treasurer at the end of each calendar month as provided in IC 36-2-7-10(a).

Sec. 2. The county auditor shall credit fifty cents (\$0.50) of the fee collected under IC 36-2-7-10(b)(11) for each mortgage recorded to the county recorder's records perpetuation fund established

under IC 36-2-7-10(c).

Sec. 3. On or before June 20 and December 20 of each year, after completing an audit of the county treasurer's monthly reports required by IC 36-2-10-16, the county auditor shall distribute to the auditor of state two dollars and fifty cents (\$2.50) of the mortgage recording fee collected under IC 36-2-7-10(b)(11) for each mortgage recorded by the county recorder. The auditor of state shall deposit the money in the state general fund to be distributed as described in section 4 of this chapter.

Sec. 4. On or before June 30 and December 31 of each year the auditor of state shall distribute one dollar and twenty-five cents (\$1.25) of the mortgage recording fee to the home ownership education account established by IC 4-4-3-23 and one dollar and twenty-five cents (\$1.25) of the mortgage recording fee to the homeowner protection unit account established by IC 4-6-12-9.

SECTION 34. IC 28-1-11-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.2. (a) As used in this section, "rights and privileges" means the power:

(1) to:

- (1) ~~(1)~~ (A) create;
- (2) ~~(2)~~ (B) deliver;
- (3) ~~(3)~~ (C) acquire; or
- (4) ~~(4)~~ (D) sell;

a product, a service, or an investment that is available to or offered by; **or**

(2) to engage in other activities authorized for;

national banks domiciled in Indiana.

(b) A bank that intends to exercise any rights and privileges that are:

- (1) granted to national banks; but
- (2) not authorized for banks under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to national banks that the bank intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the bank.

(c) The department shall promptly notify the requesting bank of the department's receipt of the letter submitted under subsection (b). Except as provided in subsection (e), the bank may exercise the

requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(d) The department, through its members, may prohibit the bank from exercising the requested rights and privileges only if the members find that:

(1) national banks domiciled in Indiana do not possess the requested rights and privileges; or

(2) the exercise of the requested rights and privileges by the bank would adversely affect the safety and soundness of the bank.

(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the bank's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the bank may exercise the requested rights and privileges only if the bank receives prior written approval from the department. However:

(1) the members must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the bank's letter; and

(2) if a hearing is convened, the members must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a bank in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) Whenever, in compliance with this section, a bank exercises rights and privileges granted to national banks domiciled in Indiana, all banks may exercise the same rights and privileges if the department by order determines that the exercise of the rights and privileges by all banks would not adversely affect their safety and soundness.

(h) If the department denies the request of a bank under this section to exercise any rights and privileges that are granted to national banks, the bank may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the bank is located. In an appeal under this section, the court shall determine the

matter de novo.

SECTION 35. IC 28-1-20-4, AS AMENDED BY P.L.258-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsections (c), (d), (g), and (k), it is unlawful for any person, firm, limited liability company, or corporation (other than a bank or trust company, **a bank holding company, a subsidiary of a bank or trust company, a subsidiary of a bank holding company, a subsidiary of a savings bank, a subsidiary of a savings association, or a corporate fiduciary organized or reorganized under IC 28 or statutes in effect at the time of organization or reorganization or under the laws of the United States**):

- (1) to use the word "bank", "banc", or "banco" as a part of the name or title of the person, firm, or corporation; or
- (2) to advertise or represent the person, firm, limited liability company, or corporation to the public:
 - (A) as a bank or trust company or a corporate fiduciary; or
 - (B) as affording the services or performing the duties which by law only a bank or trust company or a corporate fiduciary is entitled to afford and perform.

(b) A financial institution organized under the laws of any state or the United States that establishes a branch office under this title is authorized to do business at that branch using a name other than the name of its home office.

(c) Notwithstanding the prohibitions of this section, an out-of-state financial institution with the word "bank" in its legal name may use the word "bank" if the financial institution is insured by the Federal Deposit Insurance Corporation or its successor.

(d) Notwithstanding subsection (a), a building and loan association organized under IC 28-4 (before its repeal) may include in its name or title:

- (1) the words "savings bank"; or
- (2) the word "bank" if the name or title also includes either the words "savings bank" or letters "SB".

A building and loan association that includes "savings bank" in its title under this section does not by that action become a savings bank for purposes of IC 28-6.1.

(e) The name or title of a savings bank governed by IC 28-6.1 must include the words "savings bank" or the letters "SB".

(f) A savings association may include in its name the words "building and loan association".

(g) Notwithstanding subsection (a), a bank holding company (as defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a part of its name. However, this subsection does not permit a bank holding company to advertise or represent itself to the public as affording the services or performing the duties that by law a bank or trust company only is entitled to afford and perform.

(h) The department is authorized to investigate the business affairs of any person, firm, limited liability company, or corporation that uses "bank", "banc", or "banco" in its title or holds itself out as a bank, corporate fiduciary, or trust company for the purpose of determining whether the person, firm, limited liability company, or corporation is violating any of the provisions of this article, and, for that purpose, the department and its agents shall have access to any and all of the books, records, papers, and effects of the person, firm, limited liability company, or corporation. In making its examination, the department may examine any person and the partners, officers, members, or agents of the firm, limited liability company, or corporation under oath, subpoena witnesses, and require the production of the books, records, papers, and effects considered necessary. On application of the department, the circuit or superior court of the county in which the person, firm, limited liability company, or corporation maintains a place of business shall, by proper proceedings, enforce the attendance and testimony of witnesses and the production and examination of books, papers, records, and effects.

(i) The department is authorized to exercise the powers under IC 28-11-4 against a person, firm, limited liability company, or corporation that improperly holds itself out as a financial institution.

(j) A person, firm, limited liability company, or corporation who violates this section is subject to a penalty of five hundred dollars (\$500) per day for each and every day during which the violation continues. The penalty imposed shall be recovered in the name of the state on relation of the department and, when recovered, shall be paid into the financial institutions fund established by IC 28-11-2-9.

(k) The word "bank", "banc", or "banco" may not be included in the name of a corporate fiduciary.

(l) A person, firm, limited liability company, or corporation may not

use the name of an existing bank or bank holding company or a name confusingly similar to that of an existing bank or bank holding company when marketing to or soliciting business from a customer or prospective customer if the reference to the existing bank or bank holding company is:

- (1) without the consent of the existing bank or bank holding company; and
- (2) in a manner that could cause a reasonable person to believe that the marketing material or solicitation:
 - (A) originated from;
 - (B) is endorsed by; or
 - (C) is in any other way the responsibility of;

the existing bank or bank holding company.

(m) An existing bank or bank holding company may, in addition to any other remedies available under the law, report an alleged violation of subsection (l) to the department. If the department finds that the marketing material or solicitation in question is in violation of subsection (l), the department may direct the person, firm, limited liability company, or corporation to cease and desist from using that marketing material or solicitation in Indiana. If that person, firm, limited liability company, or corporation persists in using the marketing material or solicitation, the department may impose a civil penalty of up to fifteen thousand dollars (\$15,000) for each violation. Each instance in which the marketing material or solicitation is sent to a customer or prospective customer constitutes a separate violation of subsection (l).

(n) Nothing in subsection (l) or (m) prohibits the use of or reference to the name of an existing bank or bank holding company in marketing materials or solicitations, if the use or reference does not deceive or confuse a reasonable person regarding whether the marketing material or solicitation:

- (1) originated from;
- (2) is endorsed by; or
- (3) is in any other way the responsibility of;

the existing bank or bank holding company.

(o) The department may adopt rules under IC 4-22-2 to implement this section.

SECTION 36. IC 28-7-1-9, AS AMENDED BY P.L.258-2003,

SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. A credit union has the following powers:

(1) To issue shares of its capital stock to its members. No commission or compensation shall be paid for securing members or for the sale of shares.

(2) To make loans to members or other credit unions. A loan to another credit union may not exceed twenty percent (20%) of the paid-in capital and surplus of the credit union making the loan.

(3) To make loans to officers, directors, or committee members, but only if:

(A) the loan complies with all requirements under this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;

(B) upon the making of the loan, the aggregate amount of loans outstanding under this subdivision will not exceed twenty percent (20%) of the unimpaired capital and surplus of the credit union;

(C) the loan is approved by the credit committee or loan officer; and

(D) the borrower takes no part in the consideration of or vote on the application.

(4) To invest in any of the following:

(A) Bonds, notes, or certificates that are the direct or indirect obligations of the United States, or of the state, or the direct obligations of a county, township, city, town, or other taxing district or municipality or instrumentality of Indiana and that are not in default.

(B) Bonds or debentures issued by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners' Loan Act (12 U.S.C. 1461 through 1468).

(C) Interest-bearing obligations of the FSLIC Resolution Fund and obligations of national mortgage associations issued under the authority of the National Housing Act.

(D) Mortgages on real estate situated in Indiana which are fully insured under Title 2 of the National Housing Act (12 U.S.C. 1707 through 1715z).

(E) Obligations issued by farm credit banks and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C.

2001 through 2279aa-14).

(F) In savings and loan associations, other credit unions that are insured under IC 28-7-1-31.5 and certificates of indebtedness or investment of an industrial loan and investment company if the association or company is federally insured. Not more than twenty percent (20%) of the assets of a credit union may be invested in the shares or certificates of an association or company; nor more than forty percent (40%) in all such associations and companies.

(G) Corporate credit unions.

(H) Federal funds or similar types of daily funds transactions with other financial institutions.

(I) Mutual funds created and controlled by credit unions, credit union associations, or their subsidiaries. Mutual funds referred to in this clause may invest only in instruments that are approved for credit union purchase under this chapter.

(J) Shares, stocks, or obligations of any credit union service organization (as defined in Section 712 of the Rules and Regulations of the National Credit Union Administration) with the approval of the department. Not more than five percent (5%) of the total paid in and unimpaired capital of the credit union may be invested under this clause.

(5) To deposit its funds into:

(A) depository institutions that are federally insured; or

(B) state chartered credit unions that are privately insured by an insurer approved by the department.

(6) To purchase, hold, own, or convey real estate as may be conveyed to the credit union in satisfaction of debts previously contracted or in exchange for real estate conveyed to the credit union.

(7) To own, hold, or convey real estate as may be purchased by the credit union upon judgment in its favor or decrees of foreclosure upon mortgages.

(8) To issue shares of stock and upon the terms, conditions, limitations, and restrictions and with the relative rights as may be stated in the bylaws of the credit union, but no stock may have preference or priority over the other to share in the assets of the credit union upon liquidation or dissolution or for the payment of

dividends except as to the amount of the dividends and the time for the payment of the dividends as provided in the bylaws.

(9) To charge the member's share account for the actual cost of necessary locator service when the member has failed to keep the credit union informed about the member's current address. The charge shall be made only for amounts paid to a person or concern normally engaged in providing such service, and shall be made against the account or accounts of any one (1) member not more than once in any twelve (12) month period.

(10) To transfer to an accounts payable, a dormant account, or a special account share accounts which have been inactive, except for dividend credits, for a period of two (2) years. The credit union shall not consider the payment of dividends on the transferred account.

(11) To invest in fixed assets with the funds of the credit union. An investment in fixed assets in excess of five percent (5%) of its assets is subject to the approval of the department.

(12) To establish branch offices, upon approval of the department, provided that all books of account shall be maintained at the principal office.

(13) To pay an interest refund on loans proportionate to the interest paid during the dividend period by borrowers who are members at the end of the dividend period.

(14) To purchase life savings and loan protection insurance for the benefit of the credit union and its members, if:

(A) the coverage is placed with an insurance company licensed to do business in Indiana; and

(B) no officer, director, or employee of the credit union personally benefits, directly or indirectly, from the sale or purchase of the coverage.

(15) To sell and cash negotiable checks, travelers checks, and money orders for members.

(16) To purchase members' notes from any liquidating credit union, with written approval from the department, at prices agreed upon by the boards of directors of both the liquidating and the purchasing credit unions. However, the aggregate of the unpaid balances of all notes of liquidating credit unions purchased by any one (1) credit union shall not exceed ten percent (10%) of its

unimpaired capital and surplus unless special written authorization has been granted by the department.

(17) To exercise such incidental powers necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

(18) To act as a custodian or trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit sharing plan which qualifies or qualified for specific tax treatment under Section 408(a) or Section 401(d) of the Internal Revenue Code, if the funds of the trust are invested only in share accounts or insured certificates of the credit union.

(19) To issue shares of its capital stock or insured certificates to a trustee or custodian of a pension plan, profit sharing plan, or stock bonus plan which qualifies for specific tax treatment under Sections 401(d) or 408(a) of the Internal Revenue Code.

(20) A credit union may exercise any rights and privileges that are:

(A) granted to federal credit unions; but

(B) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

if the credit union complies with section 9.2 of this chapter.

(21) To sell, pledge, or discount any of its assets. However, a credit union may not pledge any of its assets as security for the safekeeping and prompt payment of any money deposited, except that a credit union may, for the safekeeping and prompt payment of money deposited, give security as authorized by federal law.

(22) To purchase assets of another credit union and to assume the liabilities of the selling credit union.

(23) To act as a fiscal agent of the United States and to receive deposits from nonmember units of the federal, state, or county governments, from political subdivisions, and from other credit unions upon which the credit union may pay varying interest rates at varying maturities subject to terms, rates, and conditions that are established by the board of directors. However, the total amount of public funds received from units of state and county governments and political subdivisions that a credit union may have on deposit may not exceed ~~ten~~ **twenty** percent (~~10%~~) (**20%**)

of the total assets of that credit union, excluding those public funds.

(24) To join the National Credit Union Administration Central Liquidity Facility.

(25) To participate in community investment initiatives under the administration of organizations:

(A) exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) located or conducting activities in communities in which the credit union does business.

Participation may be in the form of either charitable contributions or participation loans. In either case, disbursement of funds through the administering organization is not required to be limited to members of the credit union. Total contributions or participation loans may not exceed one tenth of one percent (0.001) of total assets of the credit union. A recipient of a contribution or loan is not considered qualified for credit union membership. A contribution or participation loan made under this subdivision must be approved by the board of directors.

(26) To establish and operate an automated teller machine (ATM):

(A) at any location within Indiana; or

(B) as permitted by the laws of the state in which the automated teller machine is to be located.

(27) To demand and receive, for the faithful performance and discharge of services performed under the powers vested in the credit union by this article:

(A) reasonable compensation, or compensation as fixed by agreement of the parties;

(B) all advances necessarily paid out and expended in the discharge and performance of its duties; and

(C) unless otherwise agreed upon, interest at the legal rate on the advances referred to in clause (B).

(28) Subject to any restrictions the department may impose, to become the owner or lessor of personal property acquired upon the request and for the use of a member and to incur additional obligations as may be incident to becoming an owner or lessor of such property.

SECTION 37. IC 28-7-1-9.2, AS ADDED BY P.L.134-2001, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9.2. (a) As used in this section, "rights and privileges" means the power:

(1) to:

- (1) ~~(1)~~ (A) create;
- (2) ~~(2)~~ (B) deliver;
- (3) ~~(3)~~ (C) acquire; or
- (4) ~~(4)~~ (D) sell;

a product, a service, or an investment that is available to or offered by; or

(2) to engage in other activities authorized for;

federal credit unions domiciled in Indiana.

(b) A credit union that intends to exercise any rights and privileges that are:

- (1) granted to federal credit unions; but
- (2) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to federal credit unions that the credit union intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the credit union.

(c) The department shall promptly notify the requesting credit union of the department's receipt of the letter submitted under subsection (b). Except as provided in subsection (e), the credit union may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(d) The department, through its members, may prohibit the credit union from exercising the requested rights and privileges only if the members find that:

- (1) federal credit unions domiciled in Indiana do not possess the requested rights and privileges; or
- (2) the exercise of the requested rights and privileges by the credit union would adversely affect the safety and soundness of the credit union.

(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the credit union's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the credit union may exercise the requested rights and privileges only if the credit union receives prior written approval from the department. However:

(1) the members must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the credit union's letter; and

(2) if a hearing is convened, the members must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a credit union in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) Whenever, in compliance with this section, a credit union exercises rights and privileges granted to federal credit unions domiciled in Indiana, all credit unions may exercise the same rights and privileges if the department by order determines that the exercise of the rights and privileges by all credit unions would not adversely affect their safety and soundness.

(h) If the department denies the request of a credit union under this section to exercise any rights and privileges that are granted to federal credit unions, the credit union may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the credit union is located. In an appeal under this section, the court shall determine the matter de novo.

SECTION 38. IC 28-8-4-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 27. (a) Except as provided in section 29 of this chapter, an application must be accompanied by a security device that secures the faithful performance of the obligations of the licensee to receive, handle, transmit, and pay money in connection with the:

(1) sale and issuance of payment instruments; or

- (2) transmission of money.
- (b) The security device required under subsection (a) must:
 - (1) be in an amount as provided under subsection (c);
 - (2) run to the state; and
 - (3) be in a form acceptable to the director.
- (c) The security device must be in an amount calculated as follows:
 - STEP ONE: Subtract one (1) from the number of locations where the applicant proposes to engage in business under the license.
 - STEP TWO: Multiply the difference determined under STEP ONE by ten thousand dollars (\$10,000).
 - STEP THREE: Add ~~one~~ **two** hundred thousand dollars (~~\$100,000~~) (**\$200,000**) to the product determined under STEP TWO.
 - STEP FOUR: Pay the amount that is the lesser of:
 - (1) the sum determined in STEP THREE; or
 - (2) ~~two~~ **three** hundred thousand dollars (~~\$200,000~~) (**\$300,000**).
- (d) If the security device filed is a bond, the aggregate liability of the surety shall not exceed the principal sum of the bond.

SECTION 39. IC 28-8-4-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) A license granted under this chapter permits a licensee to conduct business:

- (1) at one (1) or more locations directly or indirectly owned by the licensee; or
 - (2) through one (1) or more authorized delegates.
- (b) Each licensee shall maintain a policy of insurance issued by an insurer authorized to do business in Indiana that insures the applicant against loss by a criminal act or act of dishonesty. The principal sum of the policy shall be equivalent to ~~one-half (1/2)~~ **the amount** of the required security device required under section 27 of this chapter or deposit required under section 29 of this chapter.
- (c) Except as provided in subsection (d), a licensee must at all times possess permissible investments with an aggregate market value calculated in accordance with generally accepted accounting principles of not less than the aggregate face amount of all outstanding payment instruments issued or sold by the licensee or an authorized delegate of the licensee in the United States.
- (d) The director may waive the permissible investments requirement in subsection (c) if the dollar volume of a licensee's outstanding payment instruments does not exceed:

(1) the security device posted by the licensee under section 27 of this chapter; or

(2) the deposit made by the licensee under section 29 of this chapter.

(e) A licensee that is a corporation must at all times be in good standing with the secretary of state of the state in which the licensee was incorporated.

SECTION 40. IC 28-10-1-1, AS AMENDED BY P.L.258-2003, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 1. A reference to a federal law or federal regulation in IC 28 is a reference to the law or regulation in effect January 1, ~~2003~~: **2004**.

SECTION 41. IC 28-11-3-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) **As used in this section:**

(1) **"federally chartered" means an entity organized or reorganized under the law of the United States; and**

(2) **"state chartered" means an entity organized or reorganized under the law of Indiana or another state.**

(b) **If the department determines that federal law has preempted a provision of IC 24, IC 26, IC 28, IC 29, or IC 30, the provision of IC 24, IC 26, IC 28, IC 29, or IC 30 applies to a state chartered entity only to the same extent that the department determines the provision is applicable to the:**

(1) **same; or**

(2) **functionally equivalent;**
type of federally chartered entity.

(c) **A state chartered entity seeking an exemption from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 based on the preemption of the provision as applied to a federally chartered entity shall submit a letter to the department:**

(1) **describing in detail; and**

(2) **documenting the federal preemption of;**
the provisions from which it seeks exemption. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the requesting entity.

(d) **The department shall notify the requesting entity within ten (10) business days after the department's receipt of a letter**

described in subsection (c). Except as provided in subsection (e), upon receipt of the notification, the requesting entity may operate as if it is exempt from the provision of IC 24, IC 26, IC 28, IC 29, or IC 30 for ninety (90) days after the date on which the department receives the letter, unless otherwise notified by the department. This period may be extended if the department determines that the requesting entity's letter raises issues requiring additional information or additional time for analysis. If the department extends the period, the requesting entity may operate as if the requesting entity is exempt from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 only if the requesting entity receives prior written approval from the department. However:

(1) the department must:

(A) approve or deny the requested exemption; or

(B) convene a hearing;

not later than ninety (90) days after the department receives the requesting entity's letter; and

(2) if a hearing is convened, the department must approve or deny the requested exemption not later than ninety (90) days after the hearing is concluded.

(e) The department may refuse to exempt a requesting entity from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 if the department finds that any of the following conditions apply:

(1) The department determines that a described provision of IC 24, IC 26, IC 28, IC 29, or IC 30 is not preempted for a federally chartered entity of the:

(A) same; or

(B) functionally equivalent;

type.

(2) The extension of the federal preemption in the form of an exemption from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 to the requesting entity would:

(A) adversely affect the safety and soundness of the requesting entity; or

(B) result in an unacceptable curtailment of consumer protection provisions.

(3) The failure of the department to provide for the exemption from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 will not result in a competitive disadvantage to the requesting

entity.

(f) The operation of a financial institution in a manner consistent with exemption from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 under this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) If a financial institution is exempted from the provisions of IC 24, IC 26, IC 28, IC 29, or IC 30 in compliance with this section, the department shall do the following:

(1) Determine whether the exemption shall apply to all financial institutions that, in the opinion of the department, possess a charter that is:

(A) the same as; or

(B) functionally the equivalent of;

the charter of the exempt institution.

(2) For purposes of the determination required under subdivision (1), ensure that applying the exemption to the financial institutions described in subdivision (1) will not:

(A) adversely affect the safety and soundness of the financial institutions; or

(B) unduly constrain Indiana consumer protection provisions.

(3) Issue an order published in the Indiana Register that specifies whether the exemption applies to the financial institutions described in subdivision (1).

(h) If the department denies the request of a financial institution under this section for exemption from Indiana Code provisions that are preempted for federally chartered institutions, the requesting institution may appeal the decision of the department to the circuit court of the county in which the principal office of the requesting institution is located.

SECTION 42. IC 28-13-16-4, AS AMENDED BY P.L.258-2003, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A financial institution or any of its subsidiaries may acquire or establish a qualifying subsidiary by providing the department with written notice before acquiring or establishing the subsidiary. The department shall notify the requesting financial institution of the department's receipt of the notice.

(b) A subsidiary may exercise a power or engage in an activity permitted to be performed by a financial institution under the same

conditions and restrictions as if the power or activity is performed by the financial institution itself, or the activity has been authorized ~~by as~~ **"activity eligible for notice" procedures under 12 CFR 5.34(e)(2)(ii): 5.34(e).**

(c) The qualified subsidiary may exercise or engage in the activity thirty (30) days after the date on which the department receives the notification unless otherwise notified by the department.

SECTION 43. IC 28-13-16-5, AS ADDED BY P.L.215-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. A financial institution may acquire or establish a nonqualifying subsidiary by submitting an application to the department containing:

- (1) a complete description of the financial institution's investment in the subsidiary;
- (2) the activity to be conducted; and
- (3) a representation that the activity:
 - (A) could be performed by a financial institution under statutory authority of this title;
 - (B) is a part of or incidental to the business of banking as determined by the director; or
 - (C) has been authorized ~~by as~~ **"activity eligible for notice" procedures under 12 CFR 5.34(e)(2)(ii): 5.34(e).**

The department shall notify the requesting financial institution of the department's receipt of the application.

SECTION 44. IC 28-15-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) As used in this section, "rights and privileges" means the power:

- (1) to:
 - (1) (A) create;
 - (2) (B) deliver;
 - (3) (C) acquire; or
 - (4) (D) sell;

a ~~product or service~~ **product, a service, or an investment** that is available to or offered by; or

- (2) to engage in other activities authorized for;

federal savings associations **domiciled in Indiana.**

(b) Subject to this section, savings associations may exercise the rights and privileges that are granted to federal savings associations.

(c) A savings association that intends to exercise any rights and privileges that are:

- (1) granted to federal savings associations; but
- (2) not authorized for savings associations under:
 - (A) the Indiana Code (except for this section); or
 - (B) a rule adopted under IC 4-22-2;

shall submit a letter to the department, describing in detail the requested rights and privileges granted to federal savings associations that the savings association intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter.

(d) The department shall promptly notify the requesting savings association of its receipt of the letter submitted under subsection (c). Except as provided in subsection (f), the savings association may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(e) The department, through its members, may prohibit the savings association from exercising the requested rights and privileges only if the members find that:

- (1) federal savings associations in Indiana do not possess the requested rights and privileges; or
- (2) the exercise of the requested rights and privileges by the savings association would adversely affect the safety and soundness of the savings association.

(f) The sixty (60) day period referred to in subsection (d) may be extended by the department based on a determination that the savings association letter raises issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the savings association may exercise the requested rights and privileges only if the savings association receives prior written approval from the department. However:

- (1) the members must:
 - (A) approve or deny the requested rights and privileges; or
 - (B) convene a hearing;

not later than sixty (60) days after the department receives the savings association's letter; and

- (2) if a hearing is convened, the members must approve or deny

the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(g) The exercise of rights and privileges by a savings association in compliance with and in the manner authorized by this section does not constitute a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(h) Whenever, in compliance with this section, a savings association exercises rights and privileges granted to national savings associations domiciled in Indiana, all savings associations may exercise the same rights and privileges if the department by order determines that the exercise of the rights and privileges by all savings associations would not adversely affect their safety and soundness.

SECTION 45. IC 32-29-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2004]: **Sec. 2.5. A mortgagee or a mortgagee's assignee or representative may not require a mortgagor, as a condition of receiving or maintaining a mortgage, to obtain hazard insurance coverage against risks to improvements on the mortgaged property in an amount exceeding the replacement value of the improvements.**

SECTION 46. IC 34-7-4-2, AS AMENDED BY SEA 263-2004, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 2. Statutes outside IC 34 providing causes of action or procedures include the following:

- (1) IC 4-21.5-5 (Judicial review of administrative agency actions).
- (2) IC 22-3-4 (Worker's compensation administration and procedures).
- (3) IC 22-4-17 (Unemployment compensation system, employee's claims for benefits).
- (4) IC 22-4-32 (Unemployment compensation system, employer's appeal process).
- (5) IC 22-9 (Civil rights actions).
- (6) **IC 24-9 (Home loans).**
- (7) IC 31-14 (Paternity).
- ~~(7)~~ (8) IC 31-15 (Dissolution of marriage and legal separation).
- ~~(8)~~ (9) IC 31-16 (Support of children and other dependants).
- ~~(9)~~ (10) IC 31-17 (Custody and visitation).
- ~~(10)~~ (11) IC 31-19 (Adoption).

~~(H)~~ **(12)** IC 32-27-2, IC 32-30-1, IC 32-30-2, ~~IC 32-30-2.1,~~
~~IC 32-30-2,~~ IC 32-30-4, IC 32-30-9, IC 32-30-10, IC 32-30-12,
IC 32-30-13, and IC 32-30-14 (Real property).

~~(H2)~~ **(13)** IC 33-43-4 (Attorney liens).

SECTION 47. IC 36-2-7-10, AS AMENDED BY P.L.2-2003, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars (\$6) for the first page and two dollars (\$2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar (\$1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar (\$1) for each cross-reference of a recorded document.

(5) One dollar (\$1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process, and two dollars (\$2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(6) Five dollars (\$5) for acknowledging or certifying to a document.

(7) Five dollars (\$5) for each deed the recorder records, in

addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-19-4-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars (\$3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(11) Three dollars (\$3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows:

(A) Fifty cents (\$0.50) is to be deposited in the recorder's record perpetuation fund.

(B) Two dollars and fifty cents (\$2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.

(c) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection (b)(5), (b)(8), (b)(9), and (b)(10), **and fifty cents (\$0.50) from revenue received under subsection (b)(11)**, shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

(d) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(e) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(f) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

- (A) IC 6-1.1-22-2(c).
- (B) IC 8-23-7.
- (C) IC 8-23-23.
- (D) IC 10-17-2-3.
- (E) IC 10-17-3-2.
- (F) IC 12-14-13.
- (G) IC 12-14-16.

(g) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

SECTION 48. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 24-4.5-7-407; IC 24-4.5-7-408.

SECTION 49. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 4-4-3-8(b)(15), as added by this act, the department of commerce shall carry out the duties imposed on it under IC 4-4-3-8(b)(15), as added by this act, under interim written guidelines approved by the executive director of the department of commerce.**

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 4-4-3-8(b)(15), as added by this act.**
- (2) July 1, 2005.**

SECTION 50. [EFFECTIVE UPON PASSAGE] **Notwithstanding IC 24-9-3 and IC 24-9-4, both as added by this act, a person is not subject to a prohibition or requirement of IC 24-9-3 and IC 24-9-4, both as added by this act, with respect to a loan made before January 1, 2005.**

SECTION 51. **An emergency is declared for this act.**

P.L.74-2004

[H.1244. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning agriculture and animals and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-4-29-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 0.5. As used in this chapter, "agritourism" means the act of visiting a working farm or any agricultural, horticultural, or agribusiness operation for purposes of enjoyment, education, or active involvement in the activities of the farm or operation.**

SECTION 2. IC 4-4-29-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4.** The council consists of the following members:

- (1) The lieutenant governor.
- (2) Two (2) members of the senate, who may not be members of the same political party, appointed by the president pro tempore of the senate for a term of one (1) year.
- (3) Two (2) members of the house of representatives, who may not be members of the same political party, appointed by the speaker of the house for a term of one (1) year.
- (4) Six (6) regional tourism industry representatives, appointed by the respective tourism regions for a term of one (1) year.
- (5) ~~Eleven (11)~~ **Twelve (12)** representatives of the private sector, appointed by the governor for a term of two (2) years. **One (1) representative must own or operate an agritourism business.**
- (6) The executive director of the Indiana division of tourism.
- (7) The executive director of the **Indiana** department of transportation.
- (8) The executive director of the department of natural resources.
- (9) A member appointed by the Indiana Hotel and Motel Association, for a term of one (1) year.
- (10) A member appointed by the Restaurant and Hospitality

Association of Indiana, for a term of one (1) year.

(11) A member appointed by the Association of Indiana Convention and Visitor Bureaus, for a term of one (1) year.

(12) A member appointed by the Council of Indiana Attractions, for a term of one (1) year.

(13) A member appointed by the Indiana Gaming Association, for a term of one (1) year.

(14) A member appointed by the Recreation Vehicle Indiana Council, for a term of one (1) year.

(15) A member appointed by the Indiana Bed and Breakfast Association, for a term of one (1) year.

(16) A member appointed by the Indiana State Festival Association, for a term of one (1) year.

(17) A member who lives in a rural community and is interested in agritourism, appointed by the Indiana rural development council, for a term of one (1) year.

SECTION 3. IC 4-4-29-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The council shall do the following:

(1) Assist in developing goals and objectives for the tourism division of the department, **including the following:**

(A) Development of Indiana's agricultural and horticultural base.

(B) Job creation and retention in rural Indiana.

(C) Development of agritourism opportunities to provide additional income for Indiana's agricultural and horticultural workers.

(D) Product development, including the creation of outlets for the sale of crafts, foods, and other items produced in Indiana.

(E) Preservation and development of historic rural resources in Indiana.

(F) Local, national, and international direct marketing to increase revenue and enhance the viability of agricultural, horticultural, and agribusiness operations in Indiana.

(G) Public education about the impact of agriculture and horticulture on a community's quality of life.

(H) Capital and business assistance for agricultural,

horticultural, and agribusiness workers to increase the viability, sustainability, and growth of agritourism businesses and services in Indiana.

- (2) Establish advisory groups to make recommendations to the department on tourism research, development, and marketing.
- (3) Analyze the results and effectiveness of grants made by the department.
- (4) Build commitment and unity among tourism industry groups.
- (5) Create a forum for sharing talent, resources, and ideas regarding tourism.
- (6) Encourage public and private participation necessary for the promotion of tourism.
- (7) Promote agritourism in Indiana to national and international visitors.**
- (8) Sustain the viability and growth of the agritourism industry in Indiana.**
- (9) Establish and promote an Internet web site that is linked to the computer gateway administered by the intelenet commission under IC 5-21-2 and known as accessIndiana.**
- (10) Create regional agritourism development plans for the twelve (12) regional offices of the department.**
- (11) Coordinate efforts to educate the public about agritourism and Indiana's agricultural heritage and history.**
- (12) Provide information concerning funding opportunities, including grants, loans, and partnerships, to persons who are interested in starting an agritourism business or who operate an agritourism business.**
- (13) Make recommendations to the department and the general assembly regarding any matter involving agritourism. Recommendations to the general assembly under this subdivision must be reported in an electronic format under IC 5-14-6.**
- (14) Generate economic vitality and tourism activity for Indiana.**
- (15) Position Indiana as the recognized agritourism center of the nation.**
- ~~(7)~~ **(16) Make recommendations to the department regarding any matter involving tourism.**

SECTION 4. IC 15-4-10-12, AS AMENDED BY P.L.232-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) The Indiana corn marketing council is established. **The council is a public body corporate and politic, and though it is separate from the state, the exercise by the council of its powers constitutes an essential governmental function. The council may sue and be sued and plead and be impleaded.**

(b) The council shall be composed of fifteen (15) members. The elected members from districts listed under section 16(a) of this chapter must be:

- (1) registered as voters in Indiana;
- (2) at least eighteen (18) years of age; and
- (3) producers.

(c) Each elected member of the council must reside in the district identified in section 16(a) of this chapter from which the member was elected.

(d) Each member of the council is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency. However, council members are not entitled to any salary or per diem.

SECTION 5. IC 15-4-10-16, AS AMENDED BY P.L.232-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) One (1) council member shall be elected from each of the following districts:

DISTRICT 1. The counties of Lake, Newton, Jasper, Benton, Porter, LaPorte, Starke, White, and Pulaski.

DISTRICT 2. The counties of St. Joseph, Elkhart, Marshall, Kosciusko, Fulton, Carroll, Cass, Miami, and Wabash.

DISTRICT 3. The counties of LaGrange, Steuben, Noble, Dekalb, Whitley, Allen, Huntington, Wells, and Adams.

DISTRICT 4. The counties of Montgomery, Fountain, Warren, Tippecanoe, Vermillion, Parke, Putnam, Vigo, Clay, and Owen.

DISTRICT 5. The counties of Clinton, Boone, Tipton, Howard, Grant, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Rush, Bartholomew, and Decatur.

DISTRICT 6. The counties of Blackford, Jay, Delaware, Henry,

Randolph, Wayne, Fayette, and Union.

DISTRICT 7. The counties of Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and Spencer.

DISTRICT 8. The counties of Monroe, Brown, Lawrence, Jackson, Orange, Washington, Perry, Crawford, Harrison, and Floyd.

DISTRICT 9. The counties of Franklin, Jennings, Jefferson, Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.

DISTRICT 10. All counties in Indiana.

(b) The dean of the school of agriculture at Purdue University or the dean's designee shall serve as an ex officio member of the council.

(c) The director shall appoint two (2) representatives of first purchaser organizations to serve as members of the council.

(d) The president pro tempore of the senate shall appoint one (1) member of the senate to serve as a member of the council. The speaker of the house of representatives shall appoint one (1) member of the house of representatives to serve as a member of the council. **The members appointed under this subsection are ex officio members of the council.** These appointed members shall at all times be members of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council upon approval of the director.

SECTION 6. IC 15-4-10-22, AS AMENDED BY P.L.232-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22. (a) The council shall do the following:

(1) Elect a chairman, vice chairman, secretary, treasurer, and other officers the council considers necessary.

(2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.

~~(3) Establish accounts in adequately protected financial institutions to receive, hold, and disburse funds accumulated under this chapter.~~

~~(4)~~ (3) Bond the treasurer and such other persons as necessary to ensure adequate protection of funds received and administered by the council.

~~(5)~~ (4) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.

~~(6)~~ (5) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the council and the scope of this chapter.

~~(7)~~ Provide for an independent audit and make the results of the audit available to all interested persons:

~~(8)~~ (6) Annually publish at the same time as the results of the audit, an activities and financial report and present this report to the budget agency and the budget committee, and make this report available to all interested persons director.

~~(9)~~ (7) Procure and evaluate data and information necessary for the proper implementation of this chapter.

~~(10)~~ (8) Formulate and execute assessment procedures and methods of collection.

~~(11)~~ (9) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.

~~(12)~~ (10) Take any other action necessary for the proper implementation of this chapter.

(b) ~~Eight~~ (8) ~~Seven~~ (7) affirmative votes are required for the council to take action.

SECTION 7. IC 15-4-10-24, AS AMENDED BY P.L.232-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

(b) The council may invest all money it receives under this chapter, including assessments, gifts, and grants, in any way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for the purpose of market development.

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

~~(e) The council may not expend more than ten percent (10%) of the money it receives under this chapter for administrative expenses.~~

SECTION 8. IC 15-4-10-24.5, IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 24.5. (a) The Indiana corn market development account is established within the state general fund for the purpose of market development. The account shall be administered by the council. The account consists of:**

- (1) assessments the council receives under this chapter;**
- (2) gifts; and**
- (3) grants.**

(b) The expenses of administering this chapter shall be paid from money in the account. If the balance of the account is not more than five hundred thousand dollars (\$500,000) in a fiscal year, the council may expend not more than twenty-five percent (25%) of the balance for administrative expenses. If the account has a balance of more than five hundred thousand dollars (\$500,000) in a fiscal year, the council may spend an additional amount of not more than ten percent (10%) of the balance over five hundred thousand dollars (\$500,000) for administrative expenses.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the account is continually appropriated to the council for purposes of this chapter.

SECTION 9. IC 15-6-4-4, AS ADDED BY P.L.105-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4. As used in this chapter, "milk" means any class of milk produced by dairy ~~animals~~ cows in Indiana.**

SECTION 10. IC 15-6-4-9, AS ADDED BY P.L.105-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 9. (a) The Indiana dairy industry development board is established. The board is a public body corporate and politic, and though it is separate from the state, the exercise by the board of its powers constitutes an essential governmental function.**

(b) The board consists of:

- (1) at least nine (9); and
- (2) not more than twenty-five (25);

voting members appointed under section 12 of this chapter.

(c) Each voting member of the board must:

- (1) be a resident of Indiana;
- (2) be at least twenty-one (21) years of age;
- (3) have been actually engaged in the production of milk in Indiana for at least one (1) year; and
- (4) derive a substantial portion of the member's income from the production of milk in Indiana.

(d) The board may appoint individuals who hold offices of importance to the milk industry or have special expertise concerning the industry to participate in the work of the board as nonvoting members. Not more than five (5) individuals may be appointed under this subsection.

(e) The commissioner may participate in the activities of the board as an ex officio member.

(f) An Indiana dairy farmer selected to serve on the national dairy board shall be a nonvoting, advisory member of the board.

(g) Fewer than fifty percent (50%) of the board members, including nonvoting members, may be members of Milk Promotion Services of Indiana, Inc.

SECTION 11. IC 15-6-4-10, AS ADDED BY P.L.105-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) Before ~~January 31~~, **March 31**, the board shall:

- (1) determine:
 - (A) the percentage of the state's milk marketings produced by each producer registered with the state board of animal health or the United States Department of Agriculture; and
 - (B) the number of representatives, if any, each producer is entitled to have on the board **based on funds retained in Indiana**; and

- (2) inform each producer described in subdivision (1)(A) of the determinations made under subdivision (1).

(b) The board shall make the determinations required under this section based upon:

- (1) year end milk marketing figures from:

- (A) the United States Department of Agriculture; or
- (B) **any other source the board considers reliable**; and

(2) the formula prescribed under section 12 of this chapter.

SECTION 12. IC 15-6-4-12, AS ADDED BY P.L.105-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) The board shall appoint from among the nominations made under section 11 of this chapter one (1) board member to represent each:

- (1) producer who represents at least three percent (3%) of the state's **participating** milk marketings; and
- (2) group of producers who:
 - (A) collectively represent at least three percent (3%) of the state's **participating** milk marketings; and
 - (B) notify the board that the producers desire to be considered collectively for purposes of representation on the board.

(b) In addition to the members appointed under subsection (a), the board shall appoint one (1) board member to represent a producer or group of producers described in subsection (a)(2) for each additional ten percent (10%) of the state's **participating** milk marketings exceeding three percent (3%) that the producer or group of producers represents. **Not more than four (4) board members may represent any producer or group of producers.**

(c) The board shall make the appointments required under this section not later than thirty (30) days after the close of the period for submission of nominations under section 11 of this chapter.

(d) An appointment made by the board under this section may not result in a producer or group of producers having two (2) members on the board at the same time who represent the same share of the state's **participating** milk marketings.

(e) If a producer or group of producers entitled to representation on the board fails to submit a nomination, the board may appoint any individual who meets the requirements of section 9(c) of this chapter to represent the producer or group of producers.

SECTION 13. IC 15-6-4-14, AS ADDED BY P.L.105-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) **As used in this section, "maximum daily amount" refers to the maximum daily amount allowable to employees of the executive branch of the federal government for**

subsistence expenses while away from home in travel status.

(b) Each member of the board who is not a state employee is entitled to a business per diem determined by the board.

(c) Each member of the board is also entitled to either:

(1) a per diem to cover travel and other expenses incurred in connection with the member's duties; or

(2) reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties;

as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency. However, board members are not entitled to a salary or per diem determined by the board.

(d) The business per diem allowance may not exceed the maximum daily amount allowable in the particular location where the member's duties are being performed. A mileage rate established by the board may not exceed the standard mileage rates for personally owned transportation equipment established by the United States Internal Revenue Service for each mile necessarily traveled from the member's usual place of residence to the particular location where the member's duties are being performed.

SECTION 14. [EFFECTIVE JULY 1, 2004] **(a) The balance remaining on June 30, 2004, in any account or fund created by or on behalf of the Indiana corn market development council (including any account or fund under the control of a nonprofit corporation or organization), is transferred to the Indiana corn market development account established by IC 15-4-10-24.5, as added by this act.**

(b) This SECTION expires June 30, 2005.

P.L.75-2004

[H.1251. Approved March 17, 2004.]

AN ACT concerning prescription drugs.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-28-11-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4. A health facility that possesses unused medication that meets the requirements of IC 25-26-13-25(i)(1) through IC 25-26-13-25(i)(6):**

(1) shall return medication that belonged to a Medicaid recipient; and

**(2) may return other unused medication;
to the pharmacy that dispensed the medication.**

SECTION 2. IC 25-26-13-25, AS AMENDED BY P.L.182-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25. (a)** All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly authorized agent or representative.

(b) Except as provided in subsection (c), ~~before the expiration of subsection (e) on June 30, 2003,~~ a prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written or oral authorization of a licensed practitioner.

(c) A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written or oral authorization of a licensed practitioner

if all of the following conditions are met:

- (1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.
- (2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.
- (3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:
 - (A) All of the authorized refills have been dispensed.
 - (B) The prescription has expired under subsection (f).
- (4) The prescription for which the patient requests the refill was:
 - (A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or
 - (B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.
- (5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.
- (6) The pharmacist shall document the following information regarding the refill:
 - (A) The information required for any refill dispensed under subsection (d).
 - (B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.
 - (C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.
- (7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.
- (8) Any pharmacist initiated refill under this subsection may not

be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill".

(d) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

(e) The original prescription form or the other board approved record described in subsection (d) must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

(2) The date of each refill.

(3) The quantity dispensed.

(4) The identity of the pharmacist who dispensed the refill.

(5) The total number of refills for that prescription.

(f) A prescription is valid for not more than one (1) year after the original date of issue.

(g) A pharmacist may not knowingly dispense a prescription after

the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.

(h) A pharmacist may not knowingly dispense a prescription after the demise of the patient.

(i) A pharmacist or a pharmacy shall not resell, reuse, or redistribute a medication that is returned to the pharmacy after being dispensed unless the medication:

(1) was dispensed to a patient:

(A) residing in an institutional facility (as defined in ~~856 IAC 1-28-1(a)~~; **856 IAC 1-28.1-1(6)**); or

(B) in a hospice program under IC 16-25;

(2) was properly stored and securely maintained according to sound pharmacy practices;

(3) is returned unopened and:

(A) was dispensed in the manufacturer's original:

(i) bulk, multiple dose container with an unbroken tamper resistant seal; or

(ii) unit dose package; or

(B) was packaged by the dispensing pharmacy in a:

(i) multiple dose blister container; or

(ii) unit dose package;

(4) was dispensed by the same pharmacy as the pharmacy accepting the return;

(5) is not expired; and

(6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a Type II permit (as described in ~~IC 25-26-13-17~~; **section 17 of this chapter**).

(j) A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under ~~subsection (i)~~; **this section**.

(k) A pharmacist who violates subsection (c) commits a Class A infraction.

SECTION 3. IC 25-26-16.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 16.5. Drug Regimens in Health Facilities

Sec. 1. This chapter applies to a health facility licensed under IC 16-28.

Sec. 2. (a) As used in this chapter, "attending physician" means a physician licensed under IC 25-22.5 who is responsible for the ongoing health care of an individual who resides in a health facility.

(b) The medical director of a health facility to which the individual is admitted may not serve as the individual's attending physician unless the medical director meets the requirements set forth in subsection (a).

Sec. 3. As used in this chapter, "protocol" means a policy, procedure, or protocol of a health facility concerning the adjustment of a patient's drug regimen as allowed under this chapter by a pharmacist licensed under this article.

Sec. 4. As used in this chapter, "therapeutic alternative" means a drug product that:

- (1)** has a different chemical structure from;
- (2)** is of the same pharmacological or therapeutic class as; and
- (3)** usually can be expected to have similar therapeutic effects and adverse reaction profiles when administered to patients in therapeutically equivalent doses as;

another drug.

Sec. 5. For purposes of this chapter, a pharmacist adjusts a drug regimen if the pharmacist:

- (1)** changes the duration of treatment for a current drug therapy;
- (2)** adjusts a drug's strength, dosage form, frequency of administration, or route of administration;
- (3)** discontinues the use of a drug; or
- (4)** adds a drug to the treatment regimen.

Sec. 6. At the time an individual is admitted to a health facility that has adopted a protocol under this chapter, the individual's attending physician shall signify in writing in the form and manner prescribed by the health facility whether the protocol applies in the care and treatment of the individual.

Sec. 7. (a) A pharmacist may adjust the drug therapy regimen of the individual under:

- (1)** the written authorization of the individual's attending physician under section 6 of this chapter;
- (2)** the health facility's protocols; and
- (3)** this chapter.

(b) The pharmacist shall review the appropriate medical records of the individual to determine whether the attending physician has authorized the use of a specific protocol before the pharmacist adjusts the individual's drug therapy regimen.

(c) Notwithstanding subsection (a), if a protocol involves parenteral nutrition of the patient, the pharmacist shall communicate with the attending physician to receive approval to begin the protocol. The pharmacist shall document the authorization of the attending physician to use the protocol immediately in the individual's medical record.

Sec. 8. If a health facility elects to implement, revise, or renew a protocol under this chapter, the health facility shall establish a drug regimen review committee consisting of:

- (1) the health facility's medical director;
- (2) the health facility's director of nursing; and
- (3) a consulting pharmacist licensed under this article;

for the implementation, revision, or renewal of a protocol.

Sec. 9. Except for the addition or deletion of authorized physicians and pharmacists, a modification to a written protocol requires the initiation of a new protocol.

Sec. 10. (a) A protocol of a health facility developed under this chapter must be:

- (1) based on clinical considerations; and
- (2) reviewed by the health facility's drug regimen committee at least quarterly.

(b) A protocol of a health facility developed under this chapter may not:

- (1) prohibit the attending physician from approving only specific parts of a protocol; or
- (2) provide for an adjustment to an individual's drug regimen for the sole purpose of achieving a higher reimbursement for the substituted drug therapy than what would have been received for the original drug therapy ordered by the attending physician.

Sec. 11. A protocol developed under this chapter must include the following:

- (1) The identification of:
 - (A) the individual whose drug regimen may be adjusted;
 - (B) the attending physician who is delegating the authority

to adjust an individual's drug regimen; and

(C) the pharmacist who is authorized to adjust the individual's drug regimen.

(2) The attending physician's diagnosis of the individual's:

(A) condition; or

(B) disease state;

whose drug regimen may be adjusted.

(3) A statement regarding:

(A) the types and:

(i) categories; or

(ii) therapeutic classifications;

of medication, including the specific therapeutic alternatives that may be substituted for a drug prescribed by a physician;

(B) the minimum and maximum dosage levels within the types and:

(i) categories; or

(ii) therapeutic classifications;

of medications described in clause (A);

(C) the dosage forms;

(D) the frequency of administration;

(E) the route of administration;

(F) the duration of the administration of the drug regimen and any adjustment to the drug regimen; and

(G) exceptions to the application of the drug regimen or the adjustment to the drug regimen;

for which the pharmacist may adjust the individual's drug regimen.

(4) A requirement that:

(A) the individual's medical records be available to both the individual's attending physician and the pharmacist; and

(B) the procedures performed by the pharmacist relate to a disease or condition for which the patient has been under the attending physician's medical care.

Sec. 12. A protocol developed under this chapter that is implemented for a Medicaid recipient must comply with any statutes, regulations, and procedures under the state Medicaid program relating to the preferred drug list established under

IC 12-15-35-28.

Sec. 13. If a protocol developed under this chapter allows a pharmacist to substitute a therapeutic alternative for the drug prescribed by the individual's attending physician, the attending physician's authorization of the substitution is valid only for the duration of the prescription or drug order.

Sec. 14. This chapter does not allow a pharmacist to substitute a therapeutic alternative for the drug prescribed by the individual's attending physician unless the substitution is authorized by the attending physician under a valid protocol under this chapter.

Sec. 15. The individual's attending physician:

- (1)** shall review a protocol approved and implemented for a patient of the physician at the physician's next visit to the health facility, and at each subsequent visit of the physician to the health facility; and
- (2)** may at any time modify or cancel a protocol by entering the modification or cancellation in the individual's medical record.

Sec. 16. (a) Documentation of protocols must be maintained in a current, consistent, and readily retrievable manner.

(b) After making an adjustment to an individual's drug regimen, the pharmacist shall immediately document the adjustment in the patient's medical record.

(c) The pharmacist shall notify the individual's attending physician of an adjustment at least one (1) business day before the adjustment is made.

Sec. 17. (a) This chapter does not modify the requirements of other statutes relating to the confidentiality of medical records.

(b) This chapter does not make any other licensed health care provider or pharmaceutical manufacturer liable for the actions of a pharmacist carried out under this section.

(c) A physician who approves the use of a protocol under this chapter and a pharmacist who adjusts a drug regimen of a patient pursuant to a protocol under this chapter do not violate IC 25-22.5-1-2(d).

Sec. 18. A pharmacist who violates this chapter is subject to discipline under IC 25-1-9.

SECTION 4. IC 25-26-20 IS ADDED TO THE INDIANA CODE

AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 20. Regional Drug Repository Program

Sec. 1. The definitions in IC 25-26-13-2 apply throughout this chapter.

Sec. 2. As used in this chapter, "nonprofit health clinic" means any of the following:

- (1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).
- (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).
- (3) A nonprofit health clinic that provides medical care to patients who are indigent, uninsured, or underinsured.

Sec. 3. (a) The board may organize a voluntary regional drug repository program to collect and redistribute drugs to nonprofit health clinics.

(b) The board may enter into a voluntary agreement with any of the following to serve as a regional drug repository:

- (1) A pharmacist or pharmacy.
- (2) A wholesale drug distributor.
- (3) A hospital licensed under IC 16-21.
- (4) A health care facility (as defined in IC 16-18-2-161).
- (5) A nonprofit health clinic.

(c) A regional drug repository may not receive compensation for participation in the program.

Sec. 4. (a) Except as provided in subsections (b) and (c), unadulterated drugs that meet the requirements set forth in IC 25-26-13-25(i) may be donated without a prescription or drug order to the regional drug repository program by the following:

- (1) A pharmacist or pharmacy.
- (2) A wholesale drug distributor.
- (3) A hospital licensed under IC 16-21.
- (4) A health care facility (as defined in IC 16-18-2-161).
- (5) A hospice.
- (6) A practitioner.

(b) An unadulterated drug that:

- (1) was returned under IC 25-26-13-25; and
- (2) was prescribed for a Medicaid recipient;

may not be donated under this section unless the Medicaid program has been credited for the product cost of the drug as

provided in policies under the Medicaid program.

(c) A controlled drug may not be donated under this section.

Sec. 5. (a) A drug that is given by a regional drug repository to a nonprofit health clinic may not be:

(1) sold; or

(2) given to a patient, except upon a practitioner's prescription or drug order.

(b) An individual who is eligible to participate in:

(1) the state Medicaid program under IC 12-15; or

(2) a program that:

(A) provides a prescription drug benefit; and

(B) is funded in whole or in part by state funds;

is not eligible to receive a drug donated under the voluntary regional drug repository program organized under section 3 of this chapter.

Sec. 6. (a) The following are not subject to liability under IC 34-20-2-1:

(1) A person or entity who donates a drug to a regional drug repository program under this chapter in accordance with rules adopted by the board under section 7 of this chapter.

(2) A non-profit health clinic or practitioner who accepts or dispenses a drug under the regional drug repository program in accordance with rules adopted by the board under section 7 of this chapter.

(3) A regional drug repository that distributes a drug under the program in accordance with rules adopted by the board under section 7 of this chapter.

(b) Except in cases of negligence or willful misconduct by the manufacturer, a drug manufacturer is not subject to liability under IC 34-20-2-1 for a claim arising from a drug that is donated, accepted, or dispensed under this chapter to the user or the consumer.

Sec. 7. The board may adopt rules under IC 4-22-2 to:

(1) establish standards and procedures for accepting, storing, and dispensing drugs donated under this chapter;

(2) establish the types of drugs that may be donated; and

(3) administer this chapter.

SECTION 5. IC 34-30-2-101.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2004]: **Sec. 101.5. IC 25-26-20-6 (Concerning drugs donated to a regional drug repository program).**

SECTION 6. [EFFECTIVE JULY 1, 2004] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) Before January 1, 2005, the office shall review the process of returning unused medication under IC 25-26-13-25, as amended by this act, and the process of reimbursing the office for unused medication of a Medicaid recipient. The office may consider in the office's review information provided by pharmacies that provide long term care pharmacy services. Beginning December 31, 2004, the office may review the process of returning unused medication when the office determines that a review is necessary.

(c) Before October 1, 2004, the office shall provide any information gathered under subsection (b) to the health finance commission established by IC 2-5-23-3. Before November 1, 2004, the health finance commission shall review the process of returning unused medication under IC 25-26-13-25, including the reimbursement to the office for the unused medication of a Medicaid recipient.

(d) This SECTION expires December 31, 2009.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) The Indiana prescription drug advisory committee is established to:

- (1) study pharmacy benefit programs and proposals, including programs and proposals in other states;**
- (2) make initial and ongoing recommendations to the governor for programs that address the pharmaceutical costs of low income senior citizens; and**
- (3) review and approve changes to a prescription drug program that is established or implemented under a Medicaid waiver that uses money from the Indiana prescription drug account established by IC 4-12-8-2.**

(b) The committee consists of eleven (11) members appointed by the governor and four (4) legislative members. Members serving on the committee established by P.L.291-2001, SECTION 81, before its expiration on December 31, 2001, continue to serve. The term of each member expires December 31, 2006. The members of the committee appointed by the governor are as follows:

- (1) A physician with a specialty in geriatrics.**

- (2) A pharmacist.**
- (3) A person with expertise in health plan administration.**
- (4) A representative of an area agency on aging.**
- (5) A consumer representative from a senior citizen advocacy organization.**
- (6) A person with expertise in and knowledge of the federal Medicare program.**
- (7) A health care economist.**
- (8) A person representing a pharmaceutical research and manufacturing association.**
- (9) A township trustee.**
- (10) Two (2) other members as appointed by the governor.**

The four (4) legislative members shall serve as nonvoting members. The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the committee.

(c) The governor shall designate a member to serve as chairperson. A vacancy with respect to a member shall be filled in the same manner as the original appointment. Each member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. The expenses of the committee shall be paid from the Indiana prescription drug account established by IC 4-12-8-2. The office of the secretary of family and social services shall provide staff for the committee. The committee is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3. The committee is a governing body for purposes of IC 5-14-1.5.

(d) The committee shall make program design recommendations to the governor and the office of the secretary of family and social services to coordinate the Indiana prescription drug program administered under IC 12-10-16-3 with the federal Medicare Prescription Drug and Improvement and Modernization Act of 2003, and to ensure that the program does not duplicate benefits provided under the federal law. In making recommendations, the committee shall consider the following:

- (1) Eligibility criteria, including any changes in income limits.**
- (2) Benefit structure, including determining if the program will assume any of a program recipient's premiums or cost**

sharing requirements required by federal law.

(3) Cost sharing requirements, including whether the program should include a requirement for copayments or premium payments.

(4) Marketing and outreach strategies.

(5) Administrative structure and delivery systems.

(6) Evaluation.

(7) Coordination with existing private or public pharmaceutical assistance programs available to an individual in Indiana.

(e) The recommendations shall address the following:

(1) Cost effectiveness of program design.

(2) Strategies to minimize crowd out of private insurance.

(3) Reasonable balance between maximum eligibility levels and maximum benefit levels.

(4) Feasibility of a health care subsidy program where the amount of the subsidy is based on income.

(5) Advisability of entering into contracts with health insurance companies to administer the program.

(f) The committee shall submit its recommended changes to the governor and the office of the secretary of family and social services before:

(1) July 1, 2004, for program changes related to the Medicare discount program; and

(2) September 1, 2005, for program changes related to the part D Medicare drug benefit.

(g) This SECTION expires December 31, 2006.

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: P.L.106-2002, SECTION 1; P.L.107-2002, SECTION 35; P.L.224-2003, SECTION 68.

SECTION 9. An emergency is declared for this act.

P.L.76-2004

[H.1264. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-14-3-7, AS AMENDED BY P.L.112-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The bureau shall maintain an operating record for each person licensed by the bureau to drive a motor vehicle.

(b) An operating record must contain the following:

(1) A person's convictions for any of the following:

(A) A moving traffic violation.

(B) Operating a vehicle without financial responsibility in violation of IC 9-25.

(2) Any administrative penalty imposed by the bureau.

(3) If the driving privileges of a person have been suspended or revoked by the bureau, an entry in the record stating that a notice of suspension or revocation was mailed by the bureau and the date of the mailing of the notice.

(4) Any suspensions, revocations, or reinstatements of a person's driving privileges, license, or permit.

(5) Any requirement that the person may operate only a motor vehicle equipped with an certified ignition interlock device.

(c) An entry in the operating record of a defendant stating that notice of suspension or revocation was mailed by the bureau to the defendant constitutes prima facie evidence that the notice was mailed to the defendant's address as shown in the official driving record.

(d) An operating record maintained under this section:

(1) is not admissible as evidence in any action for damages arising out of a motor vehicle accident; and

(2) may not include voter registration information.

SECTION 2. IC 9-24-15-6.5, AS AMENDED BY P.L.215-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: Sec. 6.5. (a) The court shall grant a petition for a restricted driving permit filed under this chapter if all of the following conditions exist:

(1) The person was not convicted of one (1) or more of the following:

(A) A Class D felony under IC 9-30-5-4 before July 1, 1996, or a Class D felony or a Class C felony under IC 9-30-5-4 after June 30, 1996.

(B) A Class C felony under IC 9-30-5-5 before July 1, 1996, or a Class C felony or a Class B felony under IC 9-30-5-5 after June 30, 1996.

(2) The person's driving privileges were suspended under IC 9-30-6-9(b) or IC 35-48-4-15.

(3) The driving that was the basis of the suspension was not in connection with the person's work.

(4) The person does not have a previous conviction for operating while intoxicated.

(5) The person is participating in a rehabilitation program certified by either the division of mental health and addiction or the Indiana judicial center as a condition of the person's probation.

(b) The person filing the petition for a restricted driving permit shall include in the petition the information specified in subsection (a) in addition to the information required by sections 3 through 4 of this chapter.

(c) Whenever the court grants a person restricted driving privileges under this chapter, that part of the court's order granting probationary driving privileges shall not take effect until the person's driving privileges have been suspended for at least thirty (30) days under IC 9-30-6-9. **In a county that provides for the installation of an ignition interlock device under IC 9-30-8, installation of an ignition interlock device is required as a condition of probationary driving privileges for the entire duration of the probationary driving privileges.**

(d) If a court requires installation of a certified ignition interlock device under subsection (c), the court shall order the bureau to record this requirement in the person's operating record in accordance with IC 9-14-3-7. When the person is no longer

required to operate only a motor vehicle equipped with an ignition interlock device, the court shall notify the bureau that the ignition interlock use requirement has expired and order the bureau to update its records accordingly.

SECTION 3. IC 9-30-5-4, AS AMENDED BY P.L.175-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A person who causes serious bodily injury to another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; or

(3) while intoxicated;

commits a Class D felony. However, the offense is a Class C felony if **the person has a previous conviction of operating while intoxicated** within the five (5) years preceding the commission of the offense. ~~the person had a prior unrelated conviction under this chapter.~~

(b) A person who violates subsection (a) commits a separate offense for each person whose serious bodily injury is caused by the violation of subsection (a).

(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 4. IC 9-30-5-5, AS AMENDED BY HEA 1394-2004, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol ~~but less than fifteen-hundredths (0.15) gram of alcohol~~ per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or

(3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if **the person has a previous conviction of operating while intoxicated** within the five (5) years preceding the commission of the offense, ~~the person had a prior unrelated conviction under this chapter;~~ or if the person ~~knowingly~~ operated the motor vehicle ~~with a~~ **when the person knew that the person's** driver's license, ~~that was~~ **driving privilege, or permit is** suspended or revoked for a previous conviction for operating a vehicle while intoxicated. ~~under IC 9-30-5.~~

(b) A person at least twenty-one (21) years of age who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath; or

(2) with a controlled substance listed in schedule I or II of IC 35-48-4 or its metabolite in the person's blood;

commits a Class B felony.

(c) A person who violates subsection (a) or (b) commits a separate offense for each person whose death is caused by the violation of subsection (a) or (b).

(d) It is a defense under subsection (a)(2) or subsection (b)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 5. IC 9-30-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) A person who **knowingly or intentionally** tampers with an ignition interlock device for the purpose of:

(1) circumventing the ignition interlock device; or

(2) rendering the ignition interlock device inaccurate or inoperative;

commits a Class B ~~infraction.~~ **misdemeanor.**

(b) A person who solicits another person to:

(1) blow into an ignition interlock device; or

(2) start a motor vehicle equipped with an ignition interlock device;

for the purpose of providing an operable vehicle to a person who is restricted to driving a vehicle with the ignition interlock device

commits a Class C infraction.

SECTION 6. IC 9-30-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or IC 14-15-8, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section.

(b) If the court finds that the person:

(1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or

(2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than two (2) years.

(c) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. ~~If the court grants probationary driving privileges under this subsection, the court may order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.~~

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to

the length of the stay. ~~If the court grants probationary driving privileges under this subsection, the court may order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.~~

(e) If the conviction under consideration by the court is for an offense under:

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- (3) IC 14-15-8-8(b); or
- (4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, **in which a vehicle was used in the offense**, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

SECTION 7. IC 9-30-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) An order for probationary driving privileges granted under ~~section 12~~ of this chapter must include the following:

- (1) A requirement that the person may not violate a traffic law.
- (2) A restriction of a person's driving privileges providing for automatic execution of the suspension of driving privileges if an order is issued under subsection (b).
- (3) A written finding by the court that the court has reviewed the person's driving record and other relevant evidence and found that the person qualifies for a probationary license under ~~section 12~~ of this chapter.
- (4) Other reasonable terms of probation.

(b) If the court finds that the person has violated the terms of the order granting probationary driving privileges, the court shall order execution of that part of the sentence concerning the suspension of the person's driving privileges.

SECTION 8. IC 9-30-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, the court may, in

granting probationary driving privileges under this chapter, also order that the probationary driving privileges include the requirement that a person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(b) An order granting probationary driving privileges:

(1) under:

(A) section 12(a) of this chapter, if the person has a previous conviction that occurred at least ten (10) years before the conviction under consideration by the court; or

(B) section 12(c) of this chapter; or

(2) to a person who has a prior unrelated conviction for an offense under this chapter of which the consumption of alcohol is an element;

must prohibit the person from operating a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. However, a court is not required to order the installation of an ignition interlock device for a person described in subdivision (1) or (2) if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse.

(c) A court may not order the installation of an ignition interlock device on a vehicle operated by an employee to whom any of the following apply:

(1) Has been convicted of violating ~~IC 9-30-5-1~~ or ~~IC 9-30-5-2~~; section 1 or 2 of this chapter.

(2) Is employed as the operator of a vehicle owned, leased, or provided by the employee's employer.

(3) Is subject to a labor agreement that prohibits an employee who is convicted of an alcohol related offense from operating the employer's vehicle.

SECTION 9. IC 9-30-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) Whenever a judicial officer has determined that there was probable cause to believe that a person has violated IC 9-30-5 or IC 14-15-8, the clerk of the court shall forward:

(1) a copy of the affidavit; and

(2) a bureau certificate as described in section 16 of this chapter;

to the bureau.

(b) The probable cause affidavit required under section 7(b)(2) of this chapter must do the following:

- (1) Set forth the grounds for the arresting officer's belief that there was probable cause that the arrested person was operating a vehicle in violation of IC 9-30-5 or a motorboat in violation of IC 14-15-8.
- (2) State that the person was arrested for a violation of IC 9-30-5 or operating a motorboat in violation of IC 14-15-8.
- (3) State whether the person:
 - (A) refused to submit to a chemical test when offered; or
 - (B) submitted to a chemical test that resulted in prima facie evidence that the person was intoxicated.
- (4) Be sworn to by the arresting officer.

(c) **Except as provided in subsection (d)**, if it is determined under subsection (a) that there was probable cause to believe that a person has violated IC 9-30-5 or IC 14-15-8, at the initial hearing of the matter held under IC 35-33-7-1:

- (1) the court shall recommend immediate suspension of the person's driving privileges to take effect on the date the order is entered;
- (2) the court shall order the person to surrender all driver's licenses, permits, and receipts; and
- (3) the clerk shall forward the following to the bureau:
 - (A) The person's license or permit surrendered under this section or section 3 or 7 of this chapter.
 - (B) A copy of the order recommending immediate suspension of driving privileges.

(d) If it is determined under subsection (a) that there is probable cause to believe that a person violated IC 9-30-5, the court may, as an alternative to a license suspension under subsection (c)(1), issue an order recommending that the person be prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8 until the bureau is notified by a court that the criminal charges against the person have been resolved.

SECTION 10. IC 9-30-6-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2004]: **Sec. 8.5. (a) If the bureau receives an order recommending use of an ignition interlock device under section 8(d) of this chapter, the bureau shall immediately do the following:**

(1) Mail a notice to the person's last known address stating that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8 commencing:

(A) five (5) days after the date of the notice; or

(B) on the date the court enters an order recommending use of an ignition interlock device;

whichever occurs first.

(2) Notify the person of the right to a judicial review under section 10 of this chapter.

(b) Notwithstanding IC 4-21.5, an action that the bureau is required to take under this section is not subject to any administrative adjudication under IC 4-21.5.

SECTION 11. IC 9-30-6-8.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 8.7. (a) A person commits a Class B infraction if the person:**

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 8(d) of this chapter.

(b) A person commits a Class B misdemeanor if the person:

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) knows the person is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 8(d) of this chapter.

SECTION 12. IC 9-30-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 9. (a) This section does not apply if an ignition interlock device order is issued under section 8(d) of this chapter.**

(b) If the affidavit under section 8(b) of this chapter states that a person refused to submit to a chemical test, the bureau shall suspend

the driving privileges of the person:

(1) for one (1) year; or

(2) until the suspension is ordered terminated under IC 9-30-5.

~~(b)~~ (c) If the affidavit under section 8(b) of this chapter states that a chemical test resulted in prima facie evidence that a person was intoxicated, the bureau shall suspend the driving privileges of the person:

(1) for one hundred eighty (180) days; or

(2) until the bureau is notified by a court that the charges have been disposed of;

whichever occurs first.

~~(c)~~ (d) Whenever the bureau is required to suspend a person's driving privileges under this section, the bureau shall immediately do the following:

(1) Mail a notice to the person's last known address that must state that the person's driving privileges will be suspended for a specified period, commencing:

(A) five (5) days after the date of the notice; or

(B) on the date the court enters an order recommending suspension of the person's driving privileges under section 8(c) of this chapter;

whichever occurs first.

(2) Notify the person of the right to a judicial review under section 10 of this chapter.

~~(d)~~ (e) Notwithstanding IC 4-21.5, an action that the bureau is required to take under this article is not subject to any administrative adjudication under IC 4-21.5.

~~(e)~~ (f) If a person is granted probationary driving privileges under IC 9-30-5 and the bureau has not received the probable cause affidavit described in section 8(b) of this chapter, the bureau shall suspend the person's driving privileges for a period of thirty (30) days. After the thirty (30) day period has elapsed, the bureau shall, upon receiving a reinstatement fee from the person who was granted probationary driving privileges, issue the probationary license if the person otherwise qualifies for a license.

~~(f)~~ (g) If the bureau receives an order granting probationary driving privileges to a person who has a prior conviction for operating while intoxicated, the bureau shall do the following:

- (1) Issue the person a probationary license and notify the prosecuting attorney of the county from which the order was received that the person is not eligible for a probationary license.
- (2) Send a certified copy of the person's driving record to the prosecuting attorney.

The prosecuting attorney shall, in accordance with IC 35-38-1-15, petition the court to correct the court's order. If the bureau does not receive a corrected order within sixty (60) days, the bureau shall notify the attorney general, who shall, in accordance with IC 35-38-1-15, petition the court to correct the court's order.

SECTION 13. IC 9-30-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) A person **against whom an ignition interlock device order has been issued under section 8.5 of this chapter or** whose driving privileges have been suspended under section 9 of this chapter is entitled to a prompt judicial hearing. The person may file a petition that requests a hearing:

- (1) in the court where the charges with respect to the person's operation of a vehicle are pending; or
 - (2) if charges with respect to the person's operation of a vehicle have not been filed, in any court of the county where the alleged offense or refusal occurred that has jurisdiction over crimes committed in violation of IC 9-30-5.
- (b) The petition for review must:
- (1) be in writing;
 - (2) be verified by the person seeking review; and
 - (3) allege specific facts that contradict the facts alleged in the probable cause affidavit.
- (c) The hearing under this section shall be limited to the following issues:
- (1) Whether the arresting law enforcement officer had probable cause to believe that the person was operating a vehicle in violation of IC 9-30-5.
 - (2) Whether the person refused to submit to a chemical test offered by a law enforcement officer.
- (d) If the court finds:
- (1) that there was no probable cause; or
 - (2) that the person's driving privileges were suspended under section 9(a) of this chapter and that the person did not refuse to

submit to a chemical test;
the court shall order the bureau to **rescind the ignition interlock device requirement or** reinstate the person's driving privileges.

(e) The prosecuting attorney of the county in which a petition has been filed under this chapter shall represent the state on relation of the bureau with respect to the petition.

(f) The petitioner has the burden of proof by a preponderance of the evidence.

(g) The court's order is a final judgment appealable in the manner of civil actions by either party. The attorney general shall represent the state on relation of the bureau with respect to the appeal.

SECTION 14. IC 9-30-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) Notwithstanding any other provision of this chapter, IC 9-30-5, or IC 9-30-9, the court shall order the bureau to **rescind an ignition interlock device requirement or** reinstate the driving privileges of a person if:

(1) all of the charges under IC 9-30-5 have been dismissed and the prosecuting attorney states on the record that no charges will be refiled against the person;

(2) the court finds the allegations in a petition filed by a defendant under section 18 of this chapter are true; or

(3) the person:

(A) did not refuse to submit to a chemical test offered as a result of a law enforcement officer having probable cause to believe the person committed the offense charged; and

(B) has been found not guilty of all charges by a court or by a jury.

(b) The court's order must contain findings of fact establishing that the requirements for reinstatement described in subsection (a) have been met.

(c) A person whose driving privileges are reinstated under this section is not required to pay a reinstatement fee.

SECTION 15. IC 9-30-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. If a court orders the bureau to **rescind an ignition interlock device requirement or** reinstate a person's driving privileges under this article, the bureau shall comply with the order. Unless the order for reinstatement is issued under section 11(2) of this chapter, the bureau shall also do the

following:

- (1) Remove any record of the **ignition interlock device requirement or** suspension from the bureau's recordkeeping system.
- (2) Reinstate the privileges without cost to the person.

SECTION 16. IC 9-30-6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) A person **against whom an ignition interlock device order has been issued under section 8.5 of this chapter or** whose driving privileges have been suspended under section 9(b) of this chapter is entitled to **rescission of the ignition interlock device requirement or** reinstatement of driving privileges if the following occur:

- (1) After a request for an early trial is made by the person at the initial hearing on the charges, a trial or other disposition of the charges for which the person was arrested under IC 9-30-5 is not held within ninety (90) days after the date of the person's initial hearing on the charges.
- (2) The delay in trial or disposition of the charges is not due to the person arrested under IC 9-30-5.

(b) A person who desires **rescission of the ignition interlock device requirement or** reinstatement of driving privileges under this section must file a verified petition in the court where the charges against the petitioner are pending. The petition must allege the following:

- (1) The date of the petitioner's arrest under IC 9-30-5.
- (2) The date of the petitioner's initial hearing on the charges filed against the petitioner under IC 9-30-5.
- (3) The date set for trial or other disposition of the matter.
- (4) A statement averring the following:
 - (A) That the petitioner requested an early trial of the matter at the petitioner's initial hearing on the charges filed against the petitioner under IC 9-30-5.
 - (B) The trial or disposition date set by the court is at least ninety (90) days after the date of the petitioner's initial hearing on the charges filed against the petitioner under IC 9-30-5.
 - (C) The delay in the trial or disposition is not due to the petitioner.

(c) Upon the filing of a petition under this section, the court shall

immediately examine the record of the court to determine whether the allegations in the petition are true.

(d) If the court finds the allegations of a petition filed under this section are true, the court shall order **rescission of the ignition interlock device requirement or** reinstatement of the petitioner's driving privileges under section 11 of this chapter. The reinstatement must not take effect until ninety (90) days after the date of the petitioner's initial hearing.

SECTION 17. IC 9-30-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. If a court orders the installation of a certified ignition interlock device under ~~IC 9-30-5-16~~ **IC 9-30-5** on a motor vehicle that a person whose license is restricted owns or expects to operate, the court shall set the time that the installation must remain in effect. However, the term may not exceed the maximum term of imprisonment the court could have imposed. The person shall pay the cost of installation.

SECTION 18. IC 9-30-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If the court enters an order conditionally deferring charges under section 3 of this chapter, the court may do the following:

- (1) Suspend the person's driving privileges for at least two (2) years but not more than four (4) years.
- (2) Impose other appropriate conditions, including the payment of fees imposed under section 8 of this chapter.

(b) Notwithstanding IC 9-30-6-9, the defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least one (1) year.

(c) The court may, as an alternative to a license suspension under subsection (a)(1), issue an order prohibiting the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. An order requiring an ignition interlock device must remain in effect for at least two (2) years but not more than four (4) years.

SECTION 19. IC 9-30-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) If the court refers a defendant to the program under section 6 of this chapter, the court may do the following:

(1) Suspend the defendant's driving privileges for at least ninety (90) days but not more than four (4) years.

(2) Impose other appropriate conditions.

(b) The defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least thirty (30) days under IC 9-30-6-9.

(c) The court may, as an alternative to a license suspension under subsection (a)(1), issue an order prohibiting the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. An order requiring an ignition interlock device must remain in effect for at least two (2) years but not more than four (4) years.

SECTION 20. IC 9-30-9-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 7.5. (a) A person commits a Class B infraction if the person:**

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) or 7(d) of this chapter.

(b) A person commits a Class B misdemeanor if the person:

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) knows the person is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) or 7(d) of this chapter.

SECTION 21. IC 12-23-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 5. (a) Subject to subsection (b), if a court enters an order conditionally deferring charges that involve a violation of IC 9-30-5, the court shall do the following:**

(1) Suspend the defendant's driving privileges for at least ninety (90) days but not more than two (2) years.

(2) Impose other appropriate conditions.

(b) A defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least thirty (30)

days under IC 9-30-6-9.

(c) If a defendant has at least one (1) conviction for an offense under IC 9-30-5, the order granting probationary driving privileges under subsection (b) must, in a county that provides for the installation of an ignition interlock device under IC 9-30-8, prohibit the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(d) If a defendant does not have a prior conviction for an offense under IC 9-30-5, the court may, as an alternative to a license suspension under subsection (a)(1), issue an order prohibiting the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. An order requiring an ignition interlock device must remain in effect for at least two (2) years but not more than four (4) years.

SECTION 22. IC 12-23-5-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 5.5. (a) A person commits a Class B infraction if the person:**

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) of this chapter.

(b) A person commits a Class B misdemeanor if the person:

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) knows the person is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) of this chapter.

SECTION 23. IC 35-48-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 15. (a) If a person is convicted of an offense under section 1, 2, 3, 4, 5, 6, 7, 10, or 11 of this chapter, or conspiracy to commit an offense under section 1, 2, 3, 4, 5, 6, 7, 10, or 11 of this chapter, and the court finds that a motor vehicle was used in the commission of the offense, the court shall, in**

addition to any other order the court enters, order that the person's:

- (1) operator's license be suspended;
- (2) existing motor vehicle registrations be suspended; and
- (3) ability to register motor vehicles be suspended;

by the bureau of motor vehicles for a period specified by the court of at least six (6) months but not more than two (2) years.

(b) If a person is convicted of an offense described in subsection (a) and the person does not hold an operator's license or a learner's permit, the court shall order that the person may not receive an operator's license or a learner's permit from the bureau of motor vehicles for a period of not less than six (6) months.

P.L.77-2004

[H.1300. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-26-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) This section does not apply to the commitment of an individual if the individual has previously been committed under IC 12-26-6.

(b) A proceeding for the commitment of an individual who appears to be suffering from a chronic mental illness may be begun by filing with a court having jurisdiction a written petition by any of the following:

- (1) A health officer.
- (2) A police officer.
- (3) A friend of the individual.
- (4) A relative of the individual.
- (5) The spouse of the individual.
- (6) A guardian of the individual.
- (7) The superintendent of a facility where the individual is

present.

(8) A prosecuting attorney in accordance with IC 35-36-2-4.

(9) A prosecuting attorney or the attorney for a county office if civil commitment proceedings are initiated under IC 31-34-19-3 or IC 31-37-18-3.

(10) A third party that contracts with the division of mental health and addiction to provide competency restoration services to a defendant under IC 35-36-3-3 or IC 35-36-3-4.

SECTION 2. IC 12-26-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) At least annually, and more often if directed by the court, the superintendent of the facility or the attending physician including the superintendent or attending physician of an outpatient therapy program, shall file with the court a review of the individual's care and treatment. The review must contain a statement of the following:

- (1) The mental condition of the individual.
- (2) Whether the individual is dangerous or gravely disabled.
- (3) Whether the individual:
 - (A) needs to remain in the facility; or
 - (B) may be cared for under a guardianship.

(b) If the court has entered an order under IC 12-26-12-1, the superintendent or the attending physician shall give notice of the review to the petitioner in the individual's commitment proceeding and other persons that were designated by the court under IC 12-26-12-1 or as provided in this section.

(c) If an individual has been committed under IC 35-36-2-4, the superintendent of the facility or the attending physician shall:

(1) file with the court the report described in subsection (a) every six (6) months, or more often if directed by the court; and

(2) notify the court, the petitioner, and any other person or persons designated by the court under this section:

(A) at least ten (10) days before, or as soon as practicable in case of an emergency, when:

(i) the committed individual is allowed outside the facility or the grounds of the facility not under custodial supervision;

(ii) the committed individual is transferred to another

facility and the location of that facility; or
(iii) the committed individual is discharged or the individual's commitment is otherwise terminated; and
(B) as soon as practicable if the committed individual escapes.

(d) The court may designate as a person or persons to receive the notices provided in this section a person or persons who suffered harm as the result of a crime for which the committed individual was on trial.

(e) The court may designate as a person or persons to receive the notices provided in this section:

- (1) an individual or individuals described in subsection (d); or
- (2) a designated representative if the person or persons described in subsection (d) are incompetent, deceased, less than eighteen (18) years of age, or otherwise incapable of receiving or understanding a notice provided for in this section.

(f) A commitment order issued by a court under IC 35-36-2-4 and this article must include the following:

(1) The mailing address, electronic mail address, facsimile number, and telephone number of the following:

(A) The petitioner who filed the petition under IC 35-36-2-4.

(B) Any other person designated by the court.

(2) The notice requirements set forth in this section.

SECTION 3. IC 35-36-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) At the trial of a criminal case in which the defendant intends to interpose the defense of insanity, evidence may be introduced to prove the defendant's sanity or insanity at the time at which the defendant is alleged to have committed the offense charged in the indictment or information.

(b) When notice of an insanity defense is filed, the court shall appoint two (2) or three (3) competent disinterested psychiatrists, psychologists endorsed by the state psychology board as health service providers in psychology, or physicians, at least one (1) of whom must be a psychiatrist, to examine the defendant and to testify at the trial. This testimony shall follow the presentation of the evidence for the prosecution and for the defense, including testimony of any medical

experts employed by the state or by the defense.

(c) If a defendant does not adequately communicate, participate, and cooperate with the medical witnesses appointed by the court, after being ordered to do so by the court, the defendant may not present as evidence the testimony of any other medical witness:

(1) with whom the defendant adequately communicated, participated, and cooperated; and

(2) whose opinion is based upon examinations of the defendant;

unless the defendant shows by a preponderance of the evidence that the defendant's failure to communicate, participate, or cooperate with the medical witnesses appointed by the court was caused by the defendant's mental illness.

(d) The medical witnesses appointed by the court may be cross-examined by both the prosecution and the defense, and each side may introduce evidence in rebuttal to the testimony of such a medical witness.

SECTION 4. IC 35-36-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. **(a)** Whenever a defendant is found not responsible by reason of insanity at the time of the crime, the prosecuting attorney shall file a written petition with the court under IC 12-26-6-2(a)(3) or under IC 12-26-7. If a petition is filed under IC 12-26-6-2(a)(3), the court shall hold a commitment hearing under IC 12-26-6. If a petition is filed under IC 12-26-7, the court shall hold a commitment hearing under IC 12-26-7.

(b) The hearing shall be conducted at the earliest opportunity after the finding of not responsible by reason of insanity at the time of the crime, and the defendant shall be detained in custody until the completion of the hearing. The court may take judicial notice of evidence introduced during the trial of the defendant and may call the physicians appointed by the court to testify concerning whether the defendant is currently mentally ill and dangerous or currently mentally ill and gravely disabled, as those terms are defined by IC 12-7-2-96 and ~~IC 12-7-2-130(a)(1)~~. **IC 12-7-2-130(1)**. The court may subpoena any other persons with knowledge concerning the issues presented at the hearing.

(c) The defendant has all the rights provided by the provisions of IC 12-26 under which the petition against the defendant was filed. The

prosecuting attorney may cross-examine the witnesses and present relevant evidence concerning the issues presented at the hearing.

(d) If a court orders an individual to be committed under IC 12-26-6 or IC 12-26-7 following a verdict of not responsible by reason of insanity at the time of the crime, the superintendent of the facility to which the individual is committed and the attending physician are subject to the requirements of IC 12-26-15-1.

SECTION 5. IC 35-36-3-1, AS AMENDED BY P.L.215-2001, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If at any time before the final submission of any criminal case to the court or the jury trying the case, the court has reasonable grounds for believing that the defendant lacks the ability to understand the proceedings and assist in the preparation of ~~his~~ a defense, the court shall immediately fix a time for a hearing to determine whether the defendant has that ability. The court shall appoint two (2) or three (3) competent, disinterested:

(1) psychiatrists; or

(2) psychologists endorsed by the Indiana state board of examiners in psychology as health service providers in psychology. ~~or physicians;~~

At least one (1) of ~~whom~~ **the individuals appointed under this subsection** must be a psychiatrist. ~~who~~ **However, none may be an employee or a contractor of a state institution (as defined in IC 12-7-2-184). The individuals who are appointed** shall examine the defendant and testify at the hearing as to whether the defendant can understand the proceedings and assist in the preparation of the defendant's defense.

(b) At the hearing, other evidence relevant to whether the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense may be introduced. If the court finds that the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense, the trial shall proceed. If the court finds that the defendant lacks this ability, it shall delay or continue the trial and order the defendant committed to the division of mental health and addiction. ~~to be confined by the division in an appropriate psychiatric institution. The division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration~~

services by a third party in the:

- (1) location where the defendant currently resides; or
- (2) least restrictive setting appropriate to the needs of the defendant and the safety of the defendant and others.

However, if the defendant is serving an unrelated executed sentence in the department of correction at the time the defendant is committed to the division of mental health and addiction under this section, the division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration services by a third party at a department of correction facility agreed upon by the division of mental health and addiction or the third party contractor and the department of correction.

SECTION 6. IC 35-36-3-2, AS AMENDED BY P.L.215-2001, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Whenever the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense:

- (1) the division of mental health and addiction, through the superintendent of the appropriate psychiatric institution, superintendent of the state institution (as defined in IC 12-7-2-184); or
- (2) if the division of mental health and addiction entered into a contract for the provision of competency restoration services, the director or medical director of the third party contractor;

shall certify that fact to the proper court, which shall enter an order directing the sheriff to return the defendant. The court ~~may~~ **shall** enter such an order immediately after being sufficiently advised of the defendant's attainment of the ability to understand the proceedings and assist in the preparation of the defendant's defense. Upon the return to court of any defendant committed under section 1 of this chapter, the court shall hold the trial as if no delay or postponement had occurred.

SECTION 7. IC 35-36-3-3, AS AMENDED BY P.L.215-2001, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Within ninety (90) days after:

- (1) a defendant's ~~admittance to a psychiatric institution, the superintendent of the psychiatric institution~~ admission to a state

institution (as defined in IC 12-7-2-184); or

(2) the initiation of competency restoration services to a defendant by a third party contractor;

the superintendent of the state institution (as defined in IC 12-7-2-184) or the director or medical director of the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall certify to the proper court whether the defendant has a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense within the foreseeable future.

(b) If a substantial probability does not exist, the ~~division of mental health and addiction~~ **state institution (as defined in IC 12-7-2-184) or the third party contractor** shall initiate regular commitment proceedings under IC 12-26. If a substantial probability does exist, the ~~division of mental health and addiction~~ **state institution (as defined in IC 12-7-2-184) or third party contractor** shall retain the defendant:

(1) until the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense and is returned to the proper court for trial; or

(2) for six (6) months from the date of the:

(A) defendant's ~~admittance~~ **admission to a state institution (as defined in IC 12-7-2-184); or**

(B) **initiation of competency restoration services by a third party contractor;**

whichever first occurs.

SECTION 8. IC 35-36-3-4, AS AMENDED BY P.L.215-2001, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. If a defendant who was found under section 3 of this chapter to have had a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense has not attained that ability within six (6) months after the date of the:

(1) defendant's ~~admittance to a psychiatric institution; the division of mental health and addiction~~ **admission to a state institution (as defined in IC 12-7-2-184); or**

(2) **initiation of competency restoration services by a third**

party contractor;
the state institution (as defined in IC 12-7-2-184) or the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall institute regular commitment proceedings under IC 12-26.

P.L.78-2004

[H.1320. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-18-12, AS ADDED BY P.L.1-2004, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 12, 2003 (RETROACTIVE)]: Sec. 12. (a) For purposes of this section, "maximum rate" refers to the maximum:

- (1) property tax rate or rates; or
- (2) special benefits tax rate or rates;

referred to in the statutes listed in subsection (d).

(b) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (e) for taxes first due and payable in 2003 if subsection (e) had applied for taxes first due and payable in 2003.

(c) The maximum rate must be adjusted:

- (1) each time an annual adjustment of the assessed value of real property takes effect under IC 6-1.1-4-4.5; and
- (2) each time a general reassessment of real property takes effect under IC 6-1.1-4-4.

(d) The statutes to which subsection (a) refers are:

- (1) IC 8-10-5-17;
- (2) IC 8-22-3-11;
- (3) IC 8-22-3-25;
- (4) IC 12-29-1-1;

- (5) IC 12-29-1-2;
- (6) IC 12-29-1-3;
- ~~(7) IC 12-29-2-13;~~
- ~~(8)~~ (7) IC 12-29-3-6;
- ~~(9)~~ (8) IC 13-21-3-12;
- ~~(10)~~ (9) IC 13-21-3-15;
- ~~(11)~~ (10) IC 14-27-6-30;
- ~~(12)~~ (11) IC 14-33-7-3;
- ~~(13)~~ (12) IC 14-33-21-5;
- ~~(14)~~ (13) IC 15-1-6-2;
- ~~(15)~~ (14) IC 15-1-8-1;
- ~~(16)~~ (15) IC 15-1-8-2;
- ~~(17)~~ (16) IC 16-20-2-18;
- ~~(18)~~ (17) IC 16-20-4-27;
- ~~(19)~~ (18) IC 16-20-7-2;
- ~~(20)~~ (19) IC 16-23-1-29;
- ~~(21)~~ (20) IC 16-23-3-6;
- ~~(22)~~ (21) IC 16-23-4-2;
- ~~(23)~~ (22) IC 16-23-5-6;
- ~~(24)~~ (23) IC 16-23-7-2;
- ~~(25)~~ (24) IC 16-23-8-2;
- ~~(26)~~ (25) IC 16-23-9-2;
- ~~(27)~~ (26) IC 16-41-15-5;
- ~~(28)~~ (27) IC 16-41-33-4;
- ~~(29)~~ (28) IC 20-5-17.5-2;
- ~~(30)~~ (29) IC 20-5-17.5-3;
- ~~(31)~~ (30) IC 20-5-37-4;
- ~~(32)~~ (31) IC 20-14-7-5.1;
- ~~(33)~~ (32) IC 20-14-7-6;
- ~~(34)~~ (33) IC 20-14-13-12;
- ~~(35)~~ (34) IC 21-1-11-3;
- ~~(36)~~ (35) IC 21-2-17-2;
- ~~(37)~~ (36) IC 23-13-17-1;
- ~~(38)~~ (37) IC 23-14-66-2;
- ~~(39)~~ (38) IC 23-14-67-3;
- ~~(40)~~ (39) IC 36-7-13-4;
- ~~(41)~~ (40) IC 36-7-14-28;
- ~~(42)~~ (41) IC 36-7-15.1-16;

~~(43)~~ **(42)** IC 36-8-19-8.5;
~~(44)~~ **(43)** IC 36-9-6.1-2;
~~(45)~~ **(44)** IC 36-9-17.5-4;
~~(46)~~ **(45)** IC 36-9-27-73;
~~(47)~~ **(46)** IC 36-9-29-31;
~~(48)~~ **(47)** IC 36-9-29.1-15;
~~(49)~~ **(48)** IC 36-10-6-2;
~~(50)~~ **(49)** IC 36-10-7-7;
~~(51)~~ **(50)** IC 36-10-7-8;
~~(52)~~ **(51)** IC 36-10-7.5-19; and
~~(53)~~ **(52)** any statute enacted after December 31, 2003, that:

(A) establishes a maximum rate for any part of the:

- (i) property taxes; or
- (ii) special benefits taxes;

imposed by a political subdivision; and

(B) does not exempt the maximum rate from the adjustment under this section.

(e) The new maximum rate under a statute listed in subsection (d) is the tax rate determined under STEP SEVEN of the following STEPS:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

SECTION 2. IC 6-1.1-18.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
Sec. 10. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit to be used to fund:

(1) community mental health centers under: ~~IC 12-29-2-1~~

(A) **IC 12-29-2-1.2, for only those civil taxing units that authorized financial assistance under IC 12-29-1 before 2002 for a community mental health center as long as the tax levy under this section does not exceed the levy authorized in 2002;**

(B) **IC 12-29-2-2 through ~~IC 12-29-2-6~~ IC 12-29-2-5; and**

(C) **IC 12-29-2-13; or**

(2) community mental retardation and other developmental disabilities centers under IC 12-29-1-1;

to the extent that those property taxes are attributable to any increase in the assessed value of the civil taxing unit's taxable property caused by a general reassessment of real property that took effect after February 28, 1979.

(b) For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy described in subsection (a).

SECTION 3. IC 12-15-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) If the office of the

secretary believes that an overpayment to a provider has occurred, the office of the secretary may do the following:

- (1) Notify the provider in writing that the office of the secretary believes that an overpayment has occurred.
- (2) Request in the notice that the provider repay the amount of the alleged overpayment, including interest from the date of overpayment.

(b) ~~Except as provided in subsection (c);~~ A provider who receives a notice and request for repayment under subsection (a) may elect to do one (1) of the following:

- (1) Repay the amount of the overpayment not later than sixty (60) days after receiving notice from the office of the secretary, including interest from the date of overpayment.
- (2) Request a hearing and repay the amount of the alleged overpayment not later than sixty (60) days after receiving notice from the office of the secretary.
- (3) Request a hearing not later than sixty (60) days after receiving notice from the office of the secretary and not repay the alleged overpayment, except as provided in subsection (d).

(c) If:

- (1) a provider elects to proceed under subsection (b)(2); and
- (2) the office of the secretary determines after the hearing and any subsequent appeal that the provider does not owe the money that the office of the secretary believed the provider owed;

the office of the secretary shall return the amount of the alleged overpayment and interest paid and pay the provider interest on the money from the date of the provider's repayment.

(d) If:

- (1) a provider elects to proceed under subsection (b)(3); and
- (2) the office of the secretary determines after the hearing and any subsequent appeal that the provider owes the money;

the provider shall pay the amount of the overpayment, including interest from the date of the overpayment.

~~(e) A hospital licensed under IC 16-21 that receives a notice and request for repayment under subsection (a) has one hundred eighty (180) days to elect one (1) of the actions under subsection (b)(1); (b)(2); or (b)(3):~~

~~(f) (e)~~ Interest that is due under this section shall be paid at a rate

that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c) as follows:

(1) Interest due from a provider to the state shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(2) Interest due from the state to a provider shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

~~(g)~~ **(f)** Proceedings under this section are subject to IC 4-21.5.

SECTION 4. IC 12-15-15-1.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: **Sec. 1.6. (a) This section applies only if the office determines, based on information received from the federal Centers for Medicare and Medicaid Services, that payments made under section 1.5(b) STEP FIVE (A), (B), or (C) of this chapter will not be approved for federal financial participation.**

(b) If the office determines that payments made under section 1.5(b) STEP FIVE (A) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (A) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (A) of this chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (A) of this chapter for that state fiscal year.

(c) If the office determines that payments made under section 1.5(b) STEP FIVE (B) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (B) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (B) of this

chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (B) of this chapter for that state fiscal year.

(d) If the office determines that payments made under section 1.5(b) STEP FIVE (C) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (C) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (C) of this chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (C) of this chapter for that state fiscal year.

(e) If the office determines, based on information received from the federal Centers for Medicare and Medicaid Services, that payments made under subsection (b), (c), or (d) will not be approved for federal financial participation, the office shall use the funds that would have served as the nonfederal share of these payments for a state fiscal year to serve as the nonfederal share of a payment program for hospitals to be established by the office. The payment program must distribute payments to hospitals for a state fiscal year based upon a methodology determined by the office to be equitable under the circumstances.

SECTION 5. IC 12-15-15-9, AS AMENDED BY P.L.255-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and:

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the

county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, a hospital licensed under IC 16-21-2 that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5 is entitled to a payment under this section.

(c) ~~For a state fiscal year,~~ **Except as provided in section 9.8 of this chapter and** subject to section 9.6 of this chapter, **for a state fiscal year,** the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP SIX of the following STEPS:

STEP ONE: Identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 during the state fiscal year; and

(B) the county to which each payable claim is attributed.

STEP TWO: For each county identified in STEP ONE, identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 attributed to the county during the state fiscal year; and

(B) the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP THREE: For each county identified in STEP ONE, identify the amount of county funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

STEP FOUR: For each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, calculate the hospital's percentage share of the county's funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b). Each hospital's percentage share is based on the total amount of the hospital's payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year, calculated as a percentage of the total amount of

all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year. STEP FIVE: Subject to subsection (j), for each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, multiply the hospital's percentage share calculated under STEP FOUR by the amount of the county's funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

STEP SIX: Determine the sum of all amounts calculated under STEP FIVE for each hospital identified in STEP ONE with respect to each county identified in STEP ONE.

(d) A hospital's payment under subsection (c) is in the form of a Medicaid add-on payment. The amount of a hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e). The office shall make the payments under subsection (c) before December 15 that next succeeds the end of the state fiscal year.

(e) The non-federal share of a payment to a hospital under subsection (c) is funded from the funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) of each county to which a payable claim under IC 12-16-7.5 submitted to the division during the state fiscal year by the hospital is attributed.

(f) The amount of a county's transferred funds available to be used to fund the non-federal share of a payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds of the county transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) that the total amount of the hospital's payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year bears to the total amount of all hospital payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year.

(g) Any county's funds identified in subsection (f) that remain after the non-federal share of a hospital's payment has been funded are available to serve as the non-federal share of a payment to a hospital under section 9.5 of this chapter.

(h) For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).

(i) For purposes of this section:

(1) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(2) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

(j) The amount calculated under STEP FIVE of subsection (c) for a hospital with respect to a county may not exceed the total amount of the hospital's payable claims attributed to the county during the state fiscal year.

SECTION 6. IC 12-15-15-9.5, AS ADDED BY P.L.255-2003, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9.5. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and;

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, a hospital licensed under IC 16-21-2:

(1) that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5; and

(2) whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year;

is entitled to a payment under this section.

(c) **For a state fiscal year, Except as provided in section 9.8 of this chapter and** subject to section 9.6 of this chapter, **for a state fiscal year**, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP EIGHT of the following STEPS:

STEP ONE: Identify each county whose transfer of funds to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) for the state fiscal year was less than the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP TWO: For each county identified in STEP ONE, calculate the difference between the amount of funds of the county transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) and the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP THREE: Calculate the sum of the amounts calculated for the counties under STEP TWO.

STEP FOUR: Identify each hospital whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP FIVE: Calculate for each hospital identified in STEP FOUR the difference between the hospital's payment under section 9(c) of this chapter and the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP SIX: Calculate the sum of the amounts calculated for each of the hospitals under STEP FIVE.

STEP SEVEN: For each hospital identified in STEP FOUR, calculate the hospital's percentage share of the amount calculated under STEP SIX. Each hospital's percentage share is based on the amount calculated for the hospital under STEP FIVE calculated as a percentage of the sum calculated under STEP SIX.

STEP EIGHT: For each hospital identified in STEP FOUR,

multiply the hospital's percentage share calculated under STEP SEVEN by the sum calculated under STEP THREE. The amount calculated under this STEP for a hospital may not exceed the amount by which the hospital's total payable claims under IC 12-16-7.5 submitted during the state fiscal year exceeded the amount of the hospital's payment under section 9(c) of this chapter.

(d) A hospital's payment under subsection (c) is in the form of a Medicaid add-on payment. The amount of the hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e). The office shall make the payments under subsection (c) before December 15 that next succeeds the end of the state fiscal year.

(e) The non-federal share of a payment to a hospital under subsection (c) is derived from funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) and not expended under section 9 of this chapter. To the extent possible, the funds shall be derived on a proportional basis from the funds transferred by each county identified in subsection (c), STEP ONE:

(1) to which at least one (1) payable claim submitted by the hospital to the division during the state fiscal year is attributed; and

(2) whose funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) were not completely expended under section 9 of this chapter.

The amount available to be derived from the remaining funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) to serve as the non-federal share of the payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds transferred by all the counties identified in subsection (c), STEP ONE, that the amount calculated for the hospital under subsection (c), STEP FIVE, bears to the amount calculated under subsection (c), STEP SIX.

(f) Except as provided in subsection (g), the office may not make a payment under this section until the payments due under section 9 of this chapter for the state fiscal year have been made.

(g) If a hospital appeals a decision by the office regarding the hospital's payment under section 9 of this chapter, the office may make

payments under this section before all payments due under section 9 of this chapter are made if:

- (1) a delay in one (1) or more payments under section 9 of this chapter resulted from the appeal; and
- (2) the office determines that making payments under this section while the appeal is pending will not unreasonably affect the interests of hospitals eligible for a payment under this section.

(h) Any funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) remaining after payments are made under this section shall be used as provided in IC 12-15-20-2(8)(D).

(i) For purposes of this section:

- (1) "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b);
- (2) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and
- (3) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

SECTION 7. IC 12-15-15-9.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]:** **Sec. 9.8. (a) This section applies only if the office determines, based on information received from the United States Centers for Medicare and Medicaid Services, that a state Medicaid plan amendment implementing the payment methodology in:**

- (1) section 9(c) of this chapter; or**
- (2) section 9.5(c) of this chapter;**

will not be approved by the United States Centers for Medicare and Medicaid Services.

(b) The office may amend the state Medicaid plan to implement an alternative payment methodology to the payment methodology under section 9 of this chapter. The alternative payment

methodology must provide each hospital that would have received a payment under section 9(c) of this chapter during a state fiscal year with an amount for the state fiscal year that is as equal as possible to the amount each hospital would have received under the payment methodology under section 9(c) of this chapter. A payment methodology implemented under this subsection is in place of the payment methodology under section 9(c) of this chapter.

(c) The office may amend the state Medicaid plan to implement an alternative payment methodology to the payment methodology under section 9.5 of this chapter. The alternative payment methodology must provide each hospital that would have received a payment under section 9.5(c) of this chapter during a state fiscal year with an amount for the state fiscal year that is as equal as possible to the amount each hospital would have received under the payment methodology under section 9.5(c) of this chapter. A payment methodology implemented under this subsection is in place of the payment methodology under section 9.5(c) of this chapter.

SECTION 8. IC 12-15-16-1, AS AMENDED BY P.L.113-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. (a) A provider that is an acute care hospital licensed under IC 16-21, a state mental health institution under IC 12-24-1-3, or a private psychiatric institution licensed under IC 12-25 is a disproportionate share provider if the provider meets either of the following conditions:

(1) The provider's Medicaid inpatient utilization rate is at least one (1) standard deviation above the mean Medicaid inpatient utilization rate for providers receiving Medicaid payments in Indiana. However, the Medicaid inpatient utilization rate of providers whose low income utilization rate exceeds twenty-five percent (25%) must be excluded in calculating the statewide mean Medicaid inpatient utilization rate.

(2) The provider's low income utilization rate exceeds twenty-five percent (25%).

(b) An acute care hospital licensed under 16-21 is a municipal disproportionate share provider if the hospital:

(1) has a Medicaid utilization rate greater than one percent (1%);

and

(2) is established and operated under IC 16-22-2 or IC 16-23.

(c) A community mental health center that:

(1) is identified in IC 12-29-2-1;

(2) receives funding under:

(A) IC 12-29-1-7(b) before January 1, 2004; or

(B) IC 12-29-2-20(c) after December 31, 2003;

or from other county sources; and

(3) provides inpatient services to Medicaid patients;

is a community mental health center disproportionate share provider if the community mental health center's Medicaid inpatient utilization rate is greater than one percent (1%).

(d) A disproportionate share provider under IC 12-15-17 must have at least two (2) obstetricians who have staff privileges and who have agreed to provide obstetric services under the Medicaid program. For a hospital located in a rural area (as defined in Section 1886 of the Social Security Act), an obstetrician includes a physician with staff privileges at the hospital who has agreed to perform nonemergency obstetric procedures. However, this obstetric service requirement does not apply to a provider whose inpatients are predominantly individuals less than eighteen (18) years of age or that did not offer nonemergency obstetric services as of December 21, 1987.

(e) The determination of a provider's status as a disproportionate share provider under this section shall be based on utilization and revenue data from the most recent year for which an audited cost report from the provider is on file with the office.

SECTION 9. IC 12-15-18-5.1, AS AMENDED BY P.L.66-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5.1. (a) For state fiscal years ending on or after June 30, 1998, the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 are authorized to make intergovernmental transfers to the Medicaid indigent care trust fund in amounts to be determined jointly by the office and the trustees, and the office and each municipal health and hospital corporation.

(b) The treasurer of state shall annually transfer from appropriations made for the division of mental health and addiction sufficient money to provide the state's share of payments under IC 12-15-16-6(c)(2).

(c) The office shall coordinate the transfers from the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 so that the aggregate intergovernmental transfers, when combined with federal matching funds:

- (1) produce payments to each hospital licensed under IC 16-21 that qualifies as a disproportionate share provider under IC 12-15-16-1(a); and
- (2) both individually and in the aggregate do not exceed limits prescribed by the federal Centers for Medicare and Medicaid Services.

The trustees and a municipal health and hospital corporation are not required to make intergovernmental transfers under this section. The trustees and a municipal health and hospital corporation may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(d) A municipal disproportionate share provider (as defined in IC 12-15-16-1) shall transfer to the Medicaid indigent care trust fund an amount determined jointly by the office and the municipal disproportionate share provider. A municipal disproportionate share provider is not required to make intergovernmental transfers under this section. A municipal disproportionate share provider may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(e) A county making a payment under:

(1) IC 12-29-1-7(b) before January 1, 2004; or

(2) IC 12-29-2-20(c) after December 31, 2003;

or from other county sources to a community mental health center qualifying as a community mental health center disproportionate share provider shall certify that the payment represents expenditures that are eligible for federal financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

SECTION 10. IC 12-29-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:

Sec. 1. (a) The county executive of a county may authorize the furnishing of financial assistance to ~~the following:~~

~~(1) A community mental health center that is located or will be located in the county.~~

(2) a community mental retardation and other developmental disabilities center that is located or will be located in the county.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a center.

(2) Operating a center.

(c) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in subsection (b). The appropriation may not exceed the amount that could be collected from an annual tax levy of not more than three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

SECTION 11. IC 12-29-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:

Sec. 2. (a) If ~~a community mental health center or~~ a community mental retardation and other developmental disabilities center is organized to provide services to at least two (2) counties, the county executive of each county may authorize the furnishing of financial assistance for the purposes described in section 1(b) of this chapter.

(b) Upon the request of the county executive of the county, the county fiscal body of each county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriation of each county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

SECTION 12. IC 12-29-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:

Sec. 3. (a) The county executive of each county whose residents may receive services from ~~a community mental health center or~~ a community mental retardation and other developmental disabilities center may authorize the furnishing of a share of financial assistance

for the purposes described in section 1(b) of this chapter if the following conditions are met:

- (1) The facilities for the center are located in a state adjacent to Indiana.
- (2) The center is organized to provide services to Indiana residents.

(b) Upon the request of the county executive of a county, the county fiscal body of the county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriations of the county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

SECTION 13. IC 12-29-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
Sec. 4. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house ~~the following~~:

- ~~(1) A community mental health center.~~
 - ~~(2) a community mental retardation and other developmental disabilities center.~~
- (b) If services are provided to at least two (2) counties:
- (1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or
 - (2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

SECTION 14. IC 12-29-1-7, AS AMENDED BY P.L.215-2001, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 7. (a) On the first Monday in October, the county auditor shall certify to:

- ~~(1) the division of mental health and addiction; for a community mental health center;~~
- ~~(2) (1) the division of disability, aging, and rehabilitative services, for a community mental retardation and other developmental disabilities center; and~~

~~(3)~~ **(2)** the president of the board of directors of each center; the amount of money that will be provided to the center under this chapter.

(b) The county payment to the center shall be paid by the county treasurer to the treasurer of each center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the center shall be made on the second Monday in December.

~~A county making a payment under this subsection or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification:~~

(c) Payments by the county fiscal body

~~(1) must be in the amounts:~~

~~(A) determined by IC 12-29-2-1 through IC 12-29-2-6; and~~

~~(B) authorized by section 1 of this chapter; and~~

~~(2) are in place of grants from agencies supported within the county solely by county tax money.~~

SECTION 15. IC 12-29-2-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 1.2. (a) The county executive of a county may authorize the furnishing of financial assistance for the purposes described in subsection (b) to a community mental health center that is located or will be located:

(1) in the county;

(2) anywhere in Indiana, if the community mental health center is organized to provide services to at least two (2) counties, including the county executive's county; or

(3) in an adjacent state, if the center is organized to provide services to Indiana residents, including residents in the county executive's county.

If a community mental health center is organized to serve more than one (1) county, upon request of the county executive, each

county fiscal body may appropriate money annually from the county's general fund to provide financial assistance for the community mental health center.

(b) Assistance authorized under this section shall be used for the following purposes:

- (1) Constructing a community mental health center.
- (2) Operating a community mental health center.

(c) The appropriation from a county authorized under subsection (a) may not exceed the following:

- (1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by one and five hundred four thousandths (1.504).
- (2) For 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by one and five hundred four thousandths (1.504).

SECTION 16. IC 12-29-2-2, AS AMENDED BY P.L.1-2004, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) ~~Subject to subsections (b), (c), and (d),~~ A county shall fund the operation of community mental health centers in ~~an~~ **the** amount ~~not less than the amount that would be raised by an annual tax rate of one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of taxable property within the county,~~ **determined under subsection (b),** unless a lower tax rate ~~levy amount~~ will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

- (1) If the total population of the county is served by one (1) center.
- (2) If the total population of the county is served by more than one (1) center.
- (3) If the partial population of the county is served by one (1) center.
- (4) If the partial population of the county is served by more than one (1) center.

~~(b) This subsection applies only to a property tax that is imposed in a county containing a consolidated city. The tax rate permitted under subsection (a) for taxes first due and payable after 1995 is the tax rate~~

permitted under subsection (a) as adjusted under this subsection. For each year in which an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5 or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of:

(A) the STEP ONE tax rate; divided by

(B) one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or a general reassessment of property will take effect.

(c) With respect to a county to which subsection (b) does not apply;

the maximum tax rate permitted under subsection (a) for taxes first due and payable in calendar year 2004 and calendar year 2005 is the maximum tax rate that would have been determined under subsection (d) for taxes first due and payable in 2003 if subsection (d) had applied to the county for taxes first due and payable in 2003:

(d) This subsection applies only to a county to which subsection (b) does not apply. The tax rate permitted under subsection (a) for taxes first due and payable after calendar year 2005 is the tax rate permitted under subsection (c) as adjusted under this subsection. For each year in which an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5 or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the annual adjustment or general reassessment takes effect:

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective:

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective:

STEP FOUR: Compute separately, for each of the calendar years determined under STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year:

STEP FIVE: Divide the sum of the three (3) quotients computed under STEP FOUR by three (3):

STEP SIX: Determine the greater of the following:

(A) Zero (0):

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage:

STEP SEVEN: Determine the quotient of:

(A) the **STEP ONE** tax rate; divided by

(B) one (1) plus the **STEP SIX** percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or a general reassessment of property will take effect.

(b) The amount of funding under subsection (a) for taxes first due and payable in a calendar year is the following:

(1) For 2004, the amount is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the amount that was levied within the county to comply with this section from property taxes first due and payable in 2002.

STEP TWO: Multiply the **STEP ONE** result by the county's assessed value growth quotient for the ensuing year 2003, as determined under IC 6-1.1-18.5-2.

STEP THREE: Multiply the **STEP TWO** result by the county's assessed value growth quotient for the ensuing year 2004, as determined under IC 6-1.1-18.5-2.

(2) For 2005 and each year thereafter, the result equal to:

(A) the amount that was levied in the county to comply with this section from property taxes first due and payable in the calendar year immediately preceding the ensuing calendar year; multiplied by

(B) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

SECTION 17. IC 12-29-2-13, AS AMENDED BY P.L.215-2001, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 13. (a) This section applies to a Lake County. ~~having a population of not less than four hundred thousand (400,000) but not more than seven hundred thousand (700,000).~~

(b) In addition to any other appropriation under this article, ~~a~~ the county annually may fund each center serving the county from the county's general fund in an amount not exceeding ~~the amount that would be raised by a tax rate of one cent (\$0.01) on each one hundred~~

dollars (\$100) of taxable property within the county: the following:

(1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by seven hundred fifty-two thousandths (0.752).

(2) For 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by seven hundred fifty-two thousandths (0.752).

(c) The receipts from the tax levied under this section shall be used for the leasing, purchasing, constructing, or operating of community residential facilities for the chronically mentally ill (as defined in IC 12-7-2-167).

(d) Money appropriated under this section must be:

(1) budgeted under IC 6-1.1-17; and

(2) included in the center's budget submitted to the division of mental health and addiction.

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of mental health and addiction for a community mental health center.

SECTION 18. IC 12-29-2-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 17. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house a community mental health center.**

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

SECTION 19. IC 12-29-2-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 18.** All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:

- (1) The filing of a petition requesting the issuance of bonds.
- (2) The giving of notice of the following:
 - (A) The filing of the petition requesting the issuance of the bonds.
 - (B) The determination to issue bonds.
 - (C) A hearing on the appropriation of the proceeds of the bonds.
- (3) The right of taxpayers to appear and be heard on the proposed appropriation.
- (4) The approval of the appropriation by the department of local government finance.
- (5) The right of taxpayers to remonstrate against the issuance of bonds.

SECTION 20. IC 12-29-2-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 19.** If bonds are issued under this chapter:

- (1) the building that is constructed, equipped, or improved with proceeds of the bonds is:
 - (A) the property of the county issuing the bonds; or
 - (B) the joint property of the counties involved if the bonds are issued by at least two (2) counties; and
- (2) the tax limitations in this chapter do not apply to the levy of taxes to pay the bonds and the interest on the bonds.

SECTION 21. IC 12-29-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 20.** (a) On the first Monday in October, the county auditor shall certify to:

- (1) the division of mental health and addiction, for a community mental health center; and
- (2) the president of the board of directors of each community mental health center;

the amount of money that will be provided to the community mental health center under this chapter.

- (b) The county payment to the community mental health center

shall be paid by the county treasurer to the treasurer of each community mental health center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in December.

(c) A county making a payment under this section or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

(d) Payments by the county fiscal body:

(1) must be in the amounts:

(A) determined by sections 2 through 5 of this chapter; and

(B) authorized by sections 1.2 and 13 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

SECTION 22. IC 16-21-6-7, AS AMENDED BY P.L.44-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7. (a) The reports filed under section 3 of this chapter:

(1) may not contain information that personally identifies a patient or a consumer of health services; and

(2) must be open to public inspection.

(b) The state department shall provide copies of the reports filed under section 3 of this chapter to the public upon request, at the state department's actual cost.

(c) The following apply to information that is filed under section 6 of this chapter:

(1) Information filed with the state department's designated contractor:

(A) is confidential; and

(B) must be transferred by the contractor to the state

department in a format determined by the state department.

(2) Information filed with the state department or transferred to the state department by the state department's designated contractor is not confidential, except that information that:

(A) personally identifies; or

(B) may be used to personally identify;

a patient or consumer may not be disclosed **to a third party other than to a hospital that has filed inpatient and outpatient discharge information.**

(d) An analysis completed by the state department of information that is filed under section 6 of this chapter:

(1) may not contain information that personally identifies or may be used to personally identify a patient or consumer of health services, unless the information is determined by the state department to be necessary for a public health activity;

(2) must be open to public inspection; and

(3) must be provided to the public by the state department upon request at the state department's actual cost.

SECTION 23. IC 16-39-5-3, AS AMENDED BY P.L.44-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) As used in this section, "association" refers to an Indiana hospital trade association founded in 1921.

(b) As used in this section, "data aggregation" means a combination of information obtained from the health records of a provider with information obtained from the health records of one (1) or more other providers to permit data analysis that relates to the health care operations of the providers.

(c) Except as provided in IC 16-39-4-5, the original health record of the patient is the property of the provider and as such may be used by the provider without specific written authorization for legitimate business purposes, including the following:

(1) Submission of claims for payment from third parties.

(2) Collection of accounts.

(3) Litigation defense.

(4) Quality assurance.

(5) Peer review.

(6) Scientific, statistical, and educational purposes.

(d) In use under subsection (c), the provider shall at all times protect the confidentiality of the health record and may disclose the identity of the patient only when disclosure is essential to the provider's business use or to quality assurance and peer review.

(e) A provider may disclose a health record to another provider or to a nonprofit medical research organization to be used in connection with a joint scientific, statistical, or educational project. Each party that receives information from a health record in connection with the joint project shall protect the confidentiality of the health record and may not disclose the patient's identity except as allowed under this article.

(f) A provider may disclose a health record or information obtained from a health record to the association for use in connection with a ~~voluntary~~ data aggregation project undertaken by the association. However, the provider may disclose the identity of a patient to the association only when the disclosure is essential to the project. The association may disclose the information it receives from a provider under this subsection to the state department to be used in connection with a ~~voluntary~~ public health activity **or data aggregation of inpatient and outpatient discharge information submitted under IC 16-21-6-6**. The information disclosed by:

- (1) a provider to the association; or
- (2) the association to the state department;

under this subsection is confidential.

(g) Information contained in final results obtained by the state department for a ~~voluntary~~ public health activity that:

- (1) is based on information disclosed under subsection (f); and
- (2) identifies or could be used to determine the identity of a patient;

is confidential. All other information contained in the final results is not confidential.

(h) Information that is:

- (1) advisory or deliberative material of a speculative nature; or
- (2) an expression of opinion;

including preliminary reports produced in connection with a ~~voluntary~~ public health activity using information disclosed under subsection (f), is confidential and may only be disclosed by the state department to the association and to the provider who disclosed the information to the association.

(i) The association shall, upon the request of a provider that contracts with the association to perform data aggregation, make available information contained in the final results of data aggregation activities performed by the association **in compliance with subsection (f).**

(j) A person who recklessly violates or fails to comply with subsections (e) through (h) commits a Class C infraction. Each day a violation continues constitutes a separate offense.

(k) This chapter does not do any of the following:

(1) Repeal, modify, or amend any statute requiring or authorizing the disclosure of information about any person.

(2) Prevent disclosure or confirmation of information about patients involved in incidents that are reported or required to be reported to governmental agencies and not required to be kept confidential by the governmental agencies.

SECTION 24. IC 16-39-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3.

(a) A provider may collect a charge of twenty-five cents (\$0.25) per page for making and providing copies of medical records. If the provider collects a **retrieval labor** charge under subsection (b), the provider may not charge for making and providing copies of the first ten (10) pages of a medical record under this subsection.

(b) A provider may collect a fifteen dollar (\$15) **retrieval labor** charge in addition to the per page charge collected under subsection (a).

(c) A provider may collect actual postage costs in addition to the charges collected under subsections (a) and (b).

(d) If the person requesting the copies requests that the copies be provided within two (2) working days, and the provider provides the copies within two (2) working days, the provider may collect a fee of ten dollars (\$10) in addition to the charges collected under subsections (a) through (c).

SECTION 25. IC 12-29-2-6 IS REPEALED [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)].

SECTION 26. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] **(a) IC 12-29-1 and IC 12-29-2, both as amended by this act, apply to property taxes first due and payable after December 31, 2003.**

(b) If the department of local government finance determines that compliance with this act would cause an unreasonable delay in the certification of budgets, tax rates, and tax levies in a county, the department of local government finance may certify budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, IC 12-29-1, and IC 12-29-2 as if this act had not been passed. However, if the department of local government finance takes this action, the affected county and the department of local government finance shall provide for an additional shortfall property tax levy and an additional budgeted amount in 2005 to replace the revenue lost in 2004 to community mental health centers as a result of certifying budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, IC 12-29-1, and IC 12-29-2 as if this act had not been passed.

(c) The amount of the shortfall levy under subsection (b) shall be treated as an addition to the amount allowed in 2005 under IC 12-29-2, as amended by this act. The ad valorem property tax levy limits imposed by IC 12-29-2, as amended by this act, do not apply to ad valorem property taxes imposed under subsection (b). The shortfall levy imposed under this SECTION may not be considered in computing ad valorem property tax levies under IC 12-29-2, as amended by this act, for property taxes first due and payable after 2005.

SECTION 27. P.L.224-2003, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 70. (a) As used in this SECTION, "high Medicaid utilization nursing facility" means the smallest number of those nursing facilities with the greatest number of Medicaid patient days for which it is necessary to assess a lower quality assessment to satisfy the statistical test set forth in 42 CFR 433.68(c)(2)(ii). "health facility" refers to a health facility is licensed under IC 16-28 as a comprehensive care facility.

(b) As used in this SECTION, "nursing facility" means a health facility that is

- (1) licensed under IC 16-28 as a comprehensive care facility; and
- (2) certified for participation in the federal Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(c) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(d) As used in this SECTION, "total annual revenue" does not include revenue from Medicare services provided under Title XVIII of the federal Social Security Act (42 U.S.C. 1395 et seq.).

(e) Effective August 1, 2003, the office shall collect a quality assessment from each nursing facility that has:

- (1) a Medicaid utilization rate of at least twenty-five percent (25%); and
- (2) at least seven hundred thousand dollars (\$700,000) in annual Medicaid revenue, adjusted annually by the average annual percentage increase in Medicaid rates.

(f) If the United States Centers for Medicare and Medicaid Services determines not to approve payments under this SECTION using the methodology described in subsection (e), the office shall revise the state plan amendment and waiver request submitted under subsection (l) as soon as possible to demonstrate compliance with 42 CFR 433.68(e)(2)(ii). In amending the state plan amendment and waiver request under this subsection, the office shall collect a quality assessment effective August 1, 2003, from each health facility except the following:

- (1) A continuing care retirement community.**
- (2) A health facility that only receives revenue from Medicare services provided under 42 USC 1395 et seq.**
- (3) A health facility that has less than seven hundred fifty thousand dollars (\$750,000) in total annual revenue, adjusted annually by the average annual percentage increase in Medicaid rates.**
- (4) The Indiana Veterans' Home.**

Any revision to the state plan amendment or waiver request under this subsection is subject to and must comply with the provisions of this SECTION.

(g) If the United States Centers for Medicare and Medicaid Services determines not to approve payments under this SECTION using the methodology described in subsections (e) and (f), the office shall revise the state plan amendment and waiver request submitted under subsection (l) as soon as possible to demonstrate compliance with 42 CFR 433.68(e)(2)(ii) and to collect a quality

assessment from health facilities effective August 1, 2003. In amending the state plan amendment and waiver request under this subsection, the office may modify the parameters described in subsection (f)(1) through (f)(4). However, if the office determines a need to modify the parameters described in subsection (f)(1) through (f)(4), the office shall modify the parameters in order to achieve a methodology and result as similar as possible to the methodology and result described in subsection (f). Any revision of the state plan amendment and waiver request under this subsection is subject to and must comply with the provisions of this SECTION.

(h) The money collected from the quality assessment may be used only to pay the state's share of the costs for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.) as follows:

- (1) Twenty percent (20%) as determined by the office.
- (2) Eighty percent (80%) to nursing facilities.

~~(g)~~ (i) The office may not begin collection of the quality assessment set under this SECTION before the office calculates and begins paying enhanced reimbursement rates set forth in this SECTION.

~~(h)~~ (j) If federal financial participation becomes unavailable to match money collected from the quality assessments for the purpose of enhancing reimbursement to nursing facilities for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the office shall cease collection of the quality assessment under the SECTION.

~~(i)~~ (k) The office shall adopt rules under IC 4-22-2 to implement this act.

~~(j)~~ (l) Not later than July 1, 2003, the office shall do the following:

- (1) Request the United States Department of Health and Human Services under 42 CFR 433.72 to approve waivers of 42 CFR 433.68(c) and 42 CFR 433.68(d) by demonstrating compliance with 42 CFR 433.68(e)(2)(ii).
- (2) Submit any state Medicaid plan amendments to the United States Department of Health and Human Services that are necessary to implement this SECTION.

~~(k)~~ (m) After approval of the waivers and state Medicaid plan amendment applied for under subsection ~~(j)~~, (l), the office shall

implement this SECTION effective July 1, 2003.

~~(m)~~ **(n)** The select joint commission on Medicaid oversight, established by IC 2-5-26-3, shall review the implementation of this SECTION. The office may not make any change to the reimbursement for nursing facilities unless the select joint commission on Medicaid oversight recommends the reimbursement change.

~~(m)~~ **(o)** A nursing facility may not charge the nursing facility's residents for the amount of the quality assessment that the nursing facility pays under this SECTION.

~~(m)~~ **(p)** The office may withdraw a state plan amendment under subsection (e), (f), or (g) only if the office determines that failure to withdraw the state plan amendment will result in the expenditure of state funds not funded by the quality assessment.

(q) This SECTION expires August 1, ~~2004~~ 2005.

SECTION 28. [EFFECTIVE JULY 1, 2004] (a) In addition to the duties specified under IC 2-5-26, the select joint commission on Medicaid oversight established by IC 2-5-26-3 shall, to the extent the commission determines is feasible after consultation with the office of Medicaid policy and planning established by IC 12-8-6-1, study the following effects of the repeal of continuous eligibility for children under the Indiana Medicaid program and the children's health insurance program established under IC 12-17.6-2:

(1) Effects on government, including the following:

(A) Costs to Medicaid and the division of family and children established by IC 12-13-1-1 due to more frequent recertification requirements.

(B) Loss of revenue from federal matching funds that could not be obtained because of the repeal of continuous eligibility.

(2) Effects on the economy, including the following:

(A) Indirect cost shifting to providers due to increased charity care because recipients have lapses in eligibility.

(B) Increased burdens on township assistance (poor relief).

(3) Effects on children, including the following:

(A) Increases in the level of uninsured children in Indiana.

(B) Decreases in wellness and the effects on the educational abilities of sicker children.

(4) Effects on families, including the following:

(A) Effects on family income due to the burden of sicker children.

(B) Effects on the ability of parents to maintain stable employment due to sicker children or more burdensome recertification procedures.

(b) The select joint commission on Medicaid oversight shall submit to the legislative council before November 1, 2004, a report of its findings and recommendations concerning the study under subsection (a). The report must be submitted in an electronic format under IC 5-14-6.

(c) This SECTION expires January 1, 2005.

SECTION 29. [EFFECTIVE UPON PASSAGE] (a) The state budget committee shall review the disproportionate share funding allocations for mental health institutions and community mental health centers for state fiscal year 2004-2005.

(b) As part of the budget build up process for the 2005 session of the general assembly, the state budget committee shall make recommendations to the general assembly concerning disproportionate share funding for mental health institutions and community mental health centers for the 2005-2007 biennial budget.

(c) This SECTION expires December 31, 2005.

SECTION 30. An emergency is declared for this act.

P.L.79-2004

[H.1345. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-9-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4. Leaves of Absence for Military Service**Sec. 1. (a) This chapter applies to a person who:**

- (1) holds a state, legislative, local, or school board office (all as defined in IC 3-5-2);
- (2) is called into active duty in the:
 - (A) armed forces of the United States; or
 - (B) the national guard; and
- (3) may not appoint a deputy under IC 5-6-2.

(b) This chapter may not be applied in violation of Article 2, Section 9 of the Constitution of the State of Indiana.

Sec. 2. As used in this chapter, "active duty" means full-time service in:

- (1) the armed forces of the United States; or
- (2) the national guard;

for a period that exceeds thirty (30) consecutive days in a calendar year.

Sec. 3. As used in this chapter, "armed forces of the United States" means the active or reserve components of:

- (1) the army;
- (2) the navy;
- (3) the air force;
- (4) the coast guard;
- (5) the marine corps; or
- (6) the merchant marine.

Sec. 4. As used in this chapter, "national guard" means:

- (1) the Indiana army national guard; or
- (2) the Indiana air national guard.

Sec. 5. As used in this chapter, "officeholder" refers to a person who holds a state, legislative, local, or school board office (all as defined in IC 3-5-2).

Sec. 6. (a) An officeholder who:

- (1) is called into active duty in the:
 - (A) armed forces of the United States; or
 - (B) national guard; and
- (2) as a result of the action described in subdivision (1), is unable to perform the duties of the officeholder's office;

is entitled to a leave of absence from the officeholder's office for the period of the active duty.

(b) An officeholder has not vacated the officeholder's office by

taking a leave of absence described in subsection (a).

Sec. 7. (a) Except as provided in subsection (b) or (c), an officeholder who elects to take the leave of absence described in section 6 of this chapter shall give written notice that the officeholder is taking a leave of absence for military service to the person or entity designated in IC 5-8-3.5-1 to receive a resignation for the office the officeholder holds.

(b) An officeholder who is:

- (1)** a justice of the supreme court, a judge of the court of appeals, or a judge of the tax court; or
- (2)** a judge of a circuit, city, county, probate, or superior court;

shall give the written notice required by subsection (a) to the clerk of the supreme court.

(c) An officeholder who holds a school board office shall give the written notice required by subsection (a) to the person or entity designated in IC 20-3, IC 20-4, or IC 20-5 to receive a resignation for the office the officeholder holds.

(d) The written notice required by subsection (a) must state that the officeholder is taking a leave of absence because the officeholder:

- (1)** has been called for active duty in the:
 - (A)** armed forces of the United States; or
 - (B)** the national guard; and
- (2)** will be temporarily unable to perform the duties of the officeholder's office.

Sec. 8. (a) Except as provided in subsection (b), during the officeholder's leave of absence the officeholder's office must be filled by a temporary appointment made under:

- (1)** IC 3-13-4;
- (2)** IC 3-13-5;
- (3)** IC 3-13-6;
- (4)** IC 3-13-7;
- (5)** IC 3-13-8;
- (6)** IC 3-13-9;
- (7)** IC 3-13-10;
- (8)** IC 3-13-11;
- (9)** IC 20-3;
- (10)** IC 20-4; or

(11) IC 20-5;
in the same manner as a vacancy created by a resignation is filled.

(b) For an officeholder who:

(1) is:

(A) a justice of the supreme court, a judge of the court of appeals, or a judge of the tax court; or

(B) a judge of a circuit, city, county, probate, or superior court; and

(2) is taking a leave of absence under this chapter;

the supreme court shall appoint a judge pro tempore to fill the officeholder's office in accordance with the court's rules and procedures.

(c) The person selected or appointed under subsection (a) or (b) serves until the earlier of:

(1) the date the officeholder's leave of absence ends as provided in section 10 of this chapter; or

(2) the officeholder's term of office expires.

(d) The person selected or appointed to an office under subsection (a) or (b):

(1) assumes all the rights and duties of; and

(2) is entitled to the compensation established for;

the office for the period of the temporary appointment.

Sec. 9. (a) Whenever the person or entity that receives the written notice under section 7(a) or 7(c) of this chapter has the power to fill a vacancy created by a resignation from the office the officeholder holds, the person or entity shall make the temporary appointment needed during the officeholder's leave of absence.

(b) Whenever the person or entity that receives the written notice under section 7(a) or 7(c) of this chapter does not have the power to fill a vacancy created by a resignation from the office the officeholder holds, the person or entity shall, not later than seventy-two (72) hours after receipt of the officeholder's notice, give written notice of the need for a temporary appointment during the officeholder's leave of absence to the person or entity who has the power to:

(1) fill a vacancy; or

(2) call a caucus under IC 3-13-11 for the purpose of filling a vacancy;

created by a resignation from the office the officeholder holds.

(c) Whenever the clerk of the supreme court receives the written notice under section 7(b) of this chapter, the clerk shall give notice of the officeholder's leave of absence to the supreme court in accordance with the court's rules and procedures.

Sec. 10. (a) A leave of absence under this chapter begins on the date the officeholder enters active duty and ends on the earliest of:

- (1) the date of the officeholder's death;
- (2) the thirtieth day after the date of the discharge or release of the officeholder from active duty; or
- (3) the date the officeholder provides the written notice required by subsection (b).

(b) An officeholder returning from a leave of absence under this chapter shall give written notice that the officeholder's leave of absence has ended to the person or entity to which the officeholder provided notice under section 7 of this chapter.

(c) The person or entity that receives the written notice under subsection (b) shall, not later than seventy-two (72) hours after receipt of the officeholder's notice, give written notice that the officeholder's leave of absence has ended to the:

- (1) person temporarily appointed to the officeholder's office; and
- (2) any person or entity that received the written notice of the leave of absence under section 9(b) of this chapter.

(d) On the date an officeholder's leave of absence ends, as determined under subsection (a), the officeholder shall resume the duties of the officeholder's office for the remainder of the term for which the officeholder was elected.

Sec. 11. (a) In the event that the officeholder's term of office expires during the officeholder's leave of absence, the office shall be filled as required by law.

(b) Except as provided by a federal law or regulation, an officeholder who is on a leave of absence under this chapter is entitled to become a candidate for and be elected to the office from which the officeholder has taken a leave of absence.

Sec. 12. This chapter may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of:

- (1) the armed forces of the United States; or
- (2) the national guard;

under federal law.

SECTION 2. **An emergency is declared for this act.**

P.L.80-2004

[H.1349. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-6-2-46.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 46.7. "Firearm", for purposes of IC 34-30-20, has the meaning set forth in IC 35-47-1-5.**

SECTION 2. IC 34-6-2-89 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 89. **(a)** "Offender", for purposes of IC 34-13-3-7, means a person who is committed to the department of correction or was committed to the department of correction.

(b) "Offender", for purposes of IC 34-58, means a person who is committed to the department of correction or incarcerated in a jail.

SECTION 3. IC 34-12-3-3, AS ADDED BY P.L.19-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Except as provided in ~~section 5~~ **section 5(1) or 5(2)** of this chapter, a person may not bring an action against a firearms or ammunition manufacturer, trade association, or seller for:

(1) recovery of damages resulting from, or injunctive relief or abatement of a nuisance relating to, the lawful:

- (A) design;
- (B) manufacture;
- (C) marketing; or
- (D) sale;

of a firearm or ammunition for a firearm; or

(2) recovery of damages resulting from the criminal or unlawful misuse of a firearm or ammunition for a firearm by a third party.

SECTION 4. IC 34-12-3-5, AS ADDED BY P.L.19-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Nothing in this chapter may be construed to prohibit a person from bringing an action against a firearms or ammunition manufacturer, trade association, or seller for recovery of damages for the following:

(1) Breach of contract or warranty concerning firearms or ammunition purchased by a person.

(2) Damage or harm to a person or to property owned or leased by a person caused by a defective firearm or ammunition.

(3) Injunctive relief to enforce a valid statute, rule, or ordinance.

However, a person may not bring an action seeking injunctive relief if that action is barred under section 3 of this chapter.

SECTION 5. IC 34-30-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 20. Immunity for Misuse of a Firearm or Ammunition by a Person Other Than the Owner

Sec. 1. A person is immune from civil liability based on an act or omission related to the use of a firearm or ammunition for a firearm by another person if the other person directly or indirectly obtained the firearm or ammunition for a firearm through the commission of the following:

(1) Burglary (IC 35-43-2-1).

(2) Robbery (IC 35-42-5-1).

(3) Theft (IC 35-43-4-2).

(4) Receiving stolen property (IC 35-43-4-2).

(5) Criminal conversion (IC 35-43-4-3).

Sec. 2. The provisions of this chapter are severable. If this chapter or any part of this chapter is found to violate the United States Constitution or the Constitution of the State of Indiana, or is held invalid for any other reason, the validity of the remainder of this chapter shall not be affected.

SECTION 6. IC 34-58 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 58. SCREENING OF OFFENDER LITIGATION**Chapter 1. Screening Procedure**

Sec. 1. Upon receipt of a complaint or petition filed by an offender, the court shall docket the case and take no further action until the court has conducted the review required by section 2 of this chapter.

Sec. 2. (a) A court shall review a complaint or petition filed by an offender and shall determine if the claim may proceed. A claim may not proceed if the court determines that the claim:

- (1) is frivolous;
- (2) is not a claim upon which relief may be granted; or
- (3) seeks monetary relief from a defendant who is immune from liability for such relief.

(b) A claim is frivolous under subsection (a)(1) if the claim:

- (1) is made primarily to harass a person; or
- (2) lacks an arguable basis either in:
 - (A) law; or
 - (B) fact.

(c) A court shall dismiss a complaint or petition if:

- (1) the offender who filed the complaint or petition received leave to prosecute the action as an indigent person; and
- (2) the court determines that the offender misrepresented the offender's claim not to have sufficient funds to prosecute the action.

Sec. 3. If a court determines that a claim may not proceed under section 2 of this chapter, the court shall enter an order:

- (1) explaining why the claim may not proceed; and
- (2) stating whether there are any remaining claims in the complaint or petition that may proceed.

Sec. 4. The clerk of the court shall send an order entered under section 3 of this chapter to:

- (1) the offender;
- (2) each defendant or respondent in the action;
- (3) the department of correction, if the offender is incarcerated by the department of correction;
- (4) the sheriff of the county in which the inmate is incarcerated, if the inmate is incarcerated in a county or city jail; and
- (5) the attorney general.

Chapter 2. Abusive Litigation

Sec. 1. If an offender has filed at least three (3) civil actions in which a state court has dismissed the action or a claim under IC 34-58-1-2, the offender may not file a new complaint or petition unless a court determines that the offender is in immediate danger of serious bodily injury (as defined in IC 35-41-1-25).

SECTION 7. IC 34-13-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 7. Commencement of Action Against Public Employees and Government Entities by Offender

Sec. 1. (a) In addition to any other requirements under law, before filing a civil rights action or tort claim action against a public employee or government entity, an offender must submit to the trial court:

- (1) a copy of the complaint the offender wishes to file;
- (2) a list of all cases previously filed by the offender involving the same, similar, or related cause of actions; and
- (3) a copy of all relevant documents pertaining to the ultimate disposition of each previous case filed by the offender against any of the same defendants in a state or federal court. The relevant documents include:

- (A) the complaint;
- (B) any motions to dismiss or motions for summary judgment filed by the defendants in the actions;
- (C) the state or federal court order announcing disposition of the case; and
- (D) any opinions issued in the case by any appellate court.

(b) An offender must file with the court a brief that includes:

- (1) a legal argument;
- (2) a citation to authority; and
- (3) an explanation to the court why the new action is not subject to dismissal as a matter finally decided on its merits by a court and not subject to litigation again between the same parties.

(c) If the trial court determines that the complaint is frivolous, malicious, or otherwise utterly without merit, or fails to state a claim upon which relief may be granted, the court shall dismiss the complaint.

SECTION 8. [EFFECTIVE JULY 1, 2004] **IC 34-58, as added by this act, applies to a cause of action filed after June 30, 2004.**

SECTION 9. **An emergency is declared for this act.**

P.L.81-2004

[H.1365. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-32-9-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) The total prizes awarded for one (1) pull tab, punchboard, or tip board game may not exceed ~~two five~~ thousand dollars ~~(\$2,000)~~: **(\$5,000)**.

(b) A single prize awarded for one (1) winning ticket in a pull tab, punchboard, or tip board game may not exceed ~~three five~~ hundred **ninety-nine** dollars ~~(\$300)~~: **(\$599)**.

(c) The selling price for one (1) ticket for a pull tab, punchboard, or tip board game may not exceed one dollar (\$1).

SECTION 2. IC 6-2.5-1-5, AS AMENDED BY P.L.257-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), "gross retail income" means the total gross receipts, of any kind or character, received in a retail transaction, including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for:

- (1) the seller's cost of the property sold;
- (2) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- (3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(4) delivery charges; **or**

~~(5) installation charges; or~~

~~(6)~~ **(5)** the value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

For purposes of subdivision (4), delivery charges are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of property, including but not limited to transportation, shipping, postage, handling, crating, and packing.

(b) "Gross retail income" does not include that part of the gross receipts attributable to:

(1) the value of any tangible personal property received in a like kind exchange in the retail transaction, if the value of the property given in exchange is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(2) the receipts received in a retail transaction which constitute interest, finance charges, or insurance premiums on either a promissory note or an installment sales contract;

(3) discounts, including cash, terms, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(4) interest, financing, and carrying charges from credit extended on the sale of personal property if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; **or**

(5) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; **or**

(6) installation charges that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(c) A public utility's or a power subsidiary's gross retail income includes all gross retail income received by the public utility or power subsidiary, including any minimum charge, flat charge, membership fee, or any other form of charge or billing.

SECTION 3. IC 6-2.5-3-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. For purposes of this chapter:

(a) "Use" means the exercise of any right or power of ownership over tangible personal property.

(b) "Storage" means the keeping or retention of tangible personal property in Indiana for any purpose except the subsequent use of that property solely outside Indiana.

(c) "A retail merchant engaged in business in Indiana" includes any retail merchant who makes retail transactions in which a person acquires personal property **or services** for use, storage, or consumption in Indiana and who: ~~maintains:~~

(1) **maintains** an office, place of distribution, sales location, sample location, warehouse, storage place, or other place of business which is located in Indiana and which the retail merchant maintains, occupies, or uses, either permanently or temporarily, either directly or indirectly, and either by ~~himself~~ **the retail merchant** or through ~~an~~ **a representative**, agent, or subsidiary; ~~or~~

(2) **maintains** a representative, agent, salesman, canvasser, or solicitor who, while operating in Indiana under the authority of and on behalf of the retail merchant or a subsidiary of the retail merchant, sells, delivers, **installs, repairs, assembles, sets up, accepts returns of, bills, invoices,** or takes orders for sales of tangible personal property **or services** to be used, stored, or consumed in Indiana;

(3) **is otherwise required to register as a retail merchant under IC 6-2.5-8-1; or**

(4) **may be required by the state to collect tax under this article to the extent allowed under the Constitution of the United States and federal law.**

(d) Notwithstanding any other provision of this section, tangible or intangible property that is:

(1) owned or leased by a person that has contracted with a commercial printer for printing; and

(2) located at the premises of the commercial printer;

shall not be considered to be, or to create, an office, a place of distribution, a sales location, a sample location, a warehouse, a storage place, or other place of business maintained, occupied, or used in any

way by the person. A commercial printer with which a person has contracted for printing shall not be considered to be in any way a representative, an agent, a salesman, a canvasser, or a solicitor for the person.

SECTION 4. IC 6-2.5-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~(a)~~ A person is entitled to a credit against the use tax imposed on the use, storage, or consumption of a particular item of tangible personal property equal to the amount, if any, of sales tax, purchase tax, or use tax paid to another state, territory, or possession of the United States for the acquisition of that property.

~~(b) The credit provided under subsection (a) does not apply to the use tax imposed on the use, storage, or consumption of vehicles, watercraft, or aircraft that are required to be titled, registered, or licensed by Indiana.~~

SECTION 5. IC 6-2.5-4-1, AS AMENDED BY P.L.257-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person is a retail merchant making a retail transaction when he engages in selling at retail.

(b) A person is engaged in selling at retail when, in the ordinary course of his regularly conducted trade or business, he:

- (1) acquires tangible personal property for the purpose of resale; and
- (2) transfers that property to another person for consideration.

(c) For purposes of determining what constitutes selling at retail, it does not matter whether:

- (1) the property is transferred in the same form as when it was acquired;
- (2) the property is transferred alone or in conjunction with other property or services; or
- (3) the property is transferred conditionally or otherwise.

(d) Notwithstanding subsection (b), a person is not selling at retail if he is making a wholesale sale as described in section 2 of this chapter.

(e) The gross retail income received from selling at retail is only taxable under this article to the extent that the income represents:

- (1) the price of the property transferred, without the rendition of any service; and

(2) except as provided in subsection (g), any bona fide charges which are made for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other service performed in respect to the property transferred before its transfer and which are separately stated on the transferor's records.

~~For purposes of subdivision (2), charges for delivery are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of property, including but not limited to transportation, shipping, postage, handling, crating, and packing. For purposes of this subsection, a transfer is considered to have occurred after delivery of the property to the purchaser.~~

(f) Notwithstanding subsection (e):

(1) in the case of retail sales of gasoline (as defined in IC 6-6-1.1-103) and special fuel (as defined in IC 6-6-2.5-22), the gross retail income received from selling at retail is the total sales price of the gasoline or special fuel minus the part of that price attributable to tax imposed under IC 6-6-1.1, IC 6-6-2.5, or Section 4041(a) or Section 4081 of the Internal Revenue Code; and

(2) in the case of retail sales of cigarettes (as defined in IC 6-7-1-2), the gross retail income received from selling at retail is the total sales price of the cigarettes including the tax imposed under IC 6-7-1.

(g) Gross retail income does not include income that represents charges for serving or delivering food and food ingredients furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant. However, the exclusion under this subsection only applies if the charges for the serving or delivery are stated separately from the price of the food and food ingredients when the purchaser pays the charges.

SECTION 6. IC 6-2.5-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004 (RETROACTIVE)]: Sec. 11. (a) A person is a retail merchant making a retail transaction when ~~he the person~~ furnishes ~~local~~ cable television **or radio** service or ~~intrastate cable~~ **satellite** television **or radio** service **that terminates in Indiana.**

(b) Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction when the person provides, installs,

constructs, services, or removes tangible personal property which is used in connection with the furnishing of ~~local~~ cable television **or radio** service or ~~intrastate cable~~ **satellite or radio** television service.

SECTION 7. IC 6-2.5-6-9, AS AMENDED BY P.L.257-2003, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) In determining the amount of state gross retail and use taxes which ~~he a retail merchant~~ must remit under section 7 of this chapter, ~~a the~~ retail merchant shall, subject to ~~subsection~~ **subsections (c) and (d)**, deduct from ~~his the retail merchant's~~ gross retail income from retail transactions made during a particular reporting period, an amount equal to ~~his the retail merchant's~~ receivables which:

- (1) resulted from retail transactions in which the retail merchant did not collect the state gross retail or use tax from the purchaser;
- (2) resulted from retail transactions on which the retail merchant has previously paid the state gross retail or use tax liability to the department; and
- (3) were written off as an uncollectible debt for federal tax purposes under Section 166 of the Internal Revenue Code during the particular reporting period.

(b) If a retail merchant deducts a receivable under subsection (a) and subsequently collects all or part of that receivable, then the retail merchant shall, subject to subsection ~~(c)(6); (d)(6)~~, include the amount collected as part of ~~his the retail merchant's~~ gross retail income from retail transactions for the particular reporting period in which ~~he the retail merchant~~ makes the collection.

(c) **This subsection applies only to retail transactions occurring after June 30, 2004. The right to a deduction under this section is assignable only if the retail merchant that paid the state gross retail or use tax liability assigned the right to the deduction in writing.**

(d) The following provisions apply to a deduction for a receivable treated as uncollectible debt under subsection (a):

- (1) The deduction does not include interest.
- (2) The amount of the deduction shall be determined in the manner provided by Section 166 of the Internal Revenue Code for bad debts but shall be adjusted to exclude:
 - (A) financing charges or interest;

- (B) sales or use taxes charged on the purchase price;
 - (C) uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid;
 - (D) expenses incurred in attempting to collect any debt; and
 - (E) repossessed property.
- (3) The deduction shall be claimed on the return for the period during which the receivable is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision, a claimant who is not required to file federal income tax returns may deduct an uncollectible receivable on a return filed for the period in which the receivable is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant were required to file a federal income tax return.
- (4) If the amount of uncollectible receivables claimed as a deduction by a retail merchant for a particular reporting period exceeds the amount of the retail merchant's taxable sales for that reporting period, the retail merchant may file a refund claim under IC 6-8.1-9. However, the deadline for **the** refund claim shall be measured from the due date of the return for the reporting period on which the deduction for the uncollectible receivables could first be claimed.
- (5) If a retail merchant's filing responsibilities have been assumed by a certified service provider (as defined in IC 6-2.5-11-2), the certified service provider may claim, on behalf of the retail merchant, any deduction or refund for uncollectible receivables provided by this section. The certified service provider must credit or refund the full amount of any deduction or refund received to the retail merchant.
- (6) For purposes of reporting a payment received on a previously claimed uncollectible receivable, any payments made on a debt or account shall be applied first proportionally to the taxable price of the property and the state gross retail tax or use tax thereon, and secondly to interest, service charges, and any other charges.
- (7) A retail merchant claiming a deduction for an uncollectible receivable may allocate that receivable among the states that are members of the streamlined sales and use tax agreement if the

books and records of the retail merchant support that allocation.

SECTION 8. IC 6-2.5-8-10, AS AMENDED BY P.L.254-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) A person that:

- (1) makes retail transactions from outside Indiana to a destination in Indiana;
- (2) does not maintain a place of business in Indiana; and
- (3) either:
 - (A) engages in the regular or systematic soliciting of retail transactions from potential customers in Indiana;
 - (B) enters into a contract to provide property or services to an agency (as defined in IC 4-13-2-1) or ~~an a state educational institution of higher education~~ (as defined in IC 20-12-0.5-1); ~~or~~
 - (C) agrees to sell property or services to an agency (as defined in IC 4-13-2-1) or ~~an a state educational institution of higher education~~ (as defined in IC 20-12-0.5-1); ~~or~~
 - (D) is closely related to another person that maintains a place of business in Indiana or is described in clause (A), (B), or (C);**

shall file an application for a retail merchant's certificate under this chapter and collect and remit tax as provided in this article. Conduct described in subdivision (3)(B) and (3)(C) occurring after June 30, 2003, constitutes consent to be treated under this article as if the person has a place of business in Indiana or is engaging in conduct described in subdivision (3)(A), including the provisions of this article that require a person to collect and remit tax under this article.

(b) A person is rebuttably presumed to be engaging in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person does any of the following:

- (1) Distributes catalogs, periodicals, advertising flyers, or other written solicitations of business to potential customers in Indiana, regardless of whether the distribution is by mail or otherwise and without regard to the place from which the distribution originated or in which the materials were prepared.
- (2) Displays advertisements on billboards or displays other outdoor advertisements in Indiana.
- (3) Advertises in newspapers published in Indiana.

(4) Advertises in trade journals or other periodicals that circulate primarily in Indiana.

(5) Advertises in Indiana editions of a national or regional publication or a limited regional edition in which Indiana is included as part of a broader regional or national publication if the advertisements are not placed in other geographically defined editions of the same issue of the same publication.

(6) Advertises in editions of regional or national publications that are not by the contents of the editions geographically targeted to Indiana but that are sold over the counter in Indiana or by subscription to Indiana residents.

(7) Broadcasts on a radio or television station located in Indiana.

(8) Makes any other solicitation by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

(c) A person not maintaining a place of business in Indiana is considered to be engaged in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person engages in any of the activities described in subsection (b) and:

(1) makes at least one hundred (100) retail transactions from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months; or

(2) makes at least ten (10) retail transactions totaling more than one hundred thousand dollars (\$100,000) from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months.

(d) **Subject to subsection (e)**, the location in or outside Indiana of vendors that:

(1) are independent of a person that is soliciting customers in Indiana; and

(2) provide products or services to the person in connection with the person's solicitation of customers in Indiana:

(A) including products and services such as creation of copy, printing, distribution, and recording; **but**

(B) **excluding:**

(i) **delivery of goods;**

(ii) **billing or invoicing for the sale of goods;**

(iii) **providing repairs of goods;**

(iv) assembling or setting up goods for use by the purchaser; or

(v) accepting returns of unwanted or damaged goods;

is not to be taken into account in the determination of whether the person is required to collect use tax under this section.

(e) Subsection (d) does not apply if the person soliciting orders is closely related to the vendor.

(f) For purposes of subsections (a) and (e), a person is closely related to another person if:

(1) the two (2) persons:

(A) use an identical or a substantially similar name, trademark, or good will to develop, promote, or maintain sales;

(B) pay for each other's services in whole or in part contingent on the volume or value of sales; or

(C) share a common business plan or substantially coordinate their business plans; and

(2) either:

(A) one (1) or both of the persons are corporations and:

(i) one (1) person; and

(ii) any other person related to the person in a manner that would require an attribution of stock from the corporation to the person or from the person to the corporation under the attribution rules of Section 318 of the Internal Revenue Code;

own directly, indirectly, beneficially, or constructively at least fifty percent (50%) of the value of the corporation's outstanding stock;

(B) both entities are corporations and an individual stockholder and the members of the stockholder's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively a total of at least fifty percent (50%) of the value of both entities' outstanding stock; or

(C) one (1) or both persons are limited liability companies, partnerships, limited liability partnerships, estates, or trusts, and their members, partners, or beneficiaries own directly, indirectly, beneficially, or constructively a total of at least fifty percent (50%) of the profits, capital, stock, or

value of one (1) or both persons.

SECTION 9. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

- (6) Subtract an amount equal to the lesser of:
 - (A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or
 - (B) two thousand dollars (\$2,000).
- (7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.
- (8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.
- (9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).
- (10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.
- (11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.
- (12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.
- (13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as

follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 10. IC 6-3-2-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
Sec. 2.5. (a) This section applies to a resident person. ~~for a particular~~

taxable year, if the taxpayer's adjusted gross income for that taxable year is reduced because of a deduction allowed under Section 172 of the Internal Revenue Code for a net operating loss. For purposes of section 1 of this chapter, the taxpayer's adjusted gross income, for the particular taxable year, is the remainder determined under STEP FOUR of the following formula:

STEP ONE: Determine the taxpayer's adjusted gross income, for the taxable year, as calculated without the deduction for net operating losses provided by Section 172 of the Internal Revenue Code.

STEP TWO: Determine, in the manner prescribed in subsection (b), the amount of the taxpayer's net operating losses that are deductible for the taxable year under Section 172 of the Internal Revenue Code, as adjusted to reflect the modifications required by IC 6-3-1-3.5.

STEP THREE: Enter the larger of zero (0) or the amount determined under STEP TWO.

STEP FOUR: Subtract the amount entered under STEP THREE from the amount determined under STEP ONE.

(b) For purposes of STEP TWO of subsection (a), the modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year during which each net operating loss was incurred. In addition, for purposes of STEP TWO of subsection (a), the following procedures apply:

(1) The taxpayer's net operating loss for a particular taxable year shall be treated as a positive number.

(2) A modification that is to be added to federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a negative number.

(3) A modification that is to be subtracted from federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a positive number.

(b) Resident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried back or carried over to that year.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section

172 of the Internal Revenue Code, adjusted for the modifications required by IC 6-3-1-3.5.

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.

(2) An Indiana net operating loss includes a net operating loss that arises when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryback or carryover shall be available as a deduction from the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryback or carryover year provided in subsection (f).

(f) Carrybacks and carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryback to each of the carryback years preceding the taxable year of the loss.

(2) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(3) Carryback years shall be determined by reference to the number of years allowed for carrying back a net operating loss under Section 172(b) of the Internal Revenue Code.

(4) Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

(5) A taxpayer who makes an election under Section 172(b)(3) of the Internal Revenue Code to relinquish the carryback period with respect to a net operating loss for any taxable year shall be considered to have also relinquished the carryback of the Indiana net operating loss for purposes of this section.

(g) The entire amount of the Indiana net operating loss for any

taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

SECTION 11. IC 6-3-2-2.6, AS AMENDED BY P.L.192-2002(ss), SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person. for a particular taxable year, if the taxpayer's adjusted gross income for that taxable year is reduced because of a deduction allowed under Section 172 of the Internal Revenue Code for a net operating loss. For purposes of section † of this chapter, the taxpayer's adjusted gross income, for the particular taxable year, derived from sources within Indiana is the remainder determined under STEP FOUR of the following formula:

STEP ONE: Determine, in the manner prescribed in section 2 of this chapter, the taxpayer's adjusted gross income, for the taxable year, derived from sources within Indiana, as calculated without the deduction for net operating losses provided by Section 172 of the Internal Revenue Code.

STEP TWO: Determine, in the manner prescribed in subsection (b), the amount of the taxpayer's net operating losses that are deductible for the taxable year under Section 172 of the Internal Revenue Code, as adjusted to reflect the modifications required by IC 6-3-1-3.5; and that are derived from sources within Indiana.

STEP THREE: Enter the larger of zero (0) or the amount determined under STEP TWO.

STEP FOUR: Subtract the amount entered under STEP THREE from the amount determined under STEP ONE.

(b) For purposes of STEP TWO of subsection (a), the modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year during which each net operating loss was incurred. In addition, for purposes of STEP TWO of subsection (a), the amount of a taxpayer's net operating losses that are derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's income derived from sources within Indiana is determined; under section 2 of this chapter, for the same taxable year during which each loss was incurred. Also, for purposes of STEP TWO of subsection (a), the following procedures apply:

(1) The taxpayer's net operating loss for a particular taxable year shall be treated as a positive number.

(2) A modification that is to be added to federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a negative number.

(3) A modification that is to be subtracted from federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a positive number.

(4) A net operating loss under this section shall be considered even though in the year the taxpayer incurred the loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer was:

(A) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or

(B) an insurance company subject to tax under Section 831 of the Internal Revenue Code.

(b) Corporations and nonresident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried back or carried over to that year.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, derived from sources within Indiana and adjusted for the modifications required by IC 6-3-1-3.5.

(d) The following provisions apply for purposes of subsection (c):

- (1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.**
- (2) The amount of the taxpayer's net operating loss that is derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's adjusted income derived from sources within Indiana is determined under section 2 of this chapter for the same taxable year during which each loss was incurred.**
- (3) An Indiana net operating loss includes a net operating loss that arises when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, or when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer is a nonresident person, for the taxable year in which the Indiana net operating loss is determined.**
- (e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryback or carryover shall be available as a deduction from the taxpayer's adjusted gross income derived from sources within Indiana (as defined in section 2 of this chapter) in the carryback or carryover year provided in subsection (f).**
- (f) Carrybacks and carryovers shall be determined under this subsection as follows:**
 - (1) An Indiana net operating loss shall be an Indiana net operating loss carryback to each of the carryback years preceding the taxable year of the loss.**
 - (2) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.**
 - (3) Carryback years shall be determined by reference to the number of years allowed for carrying back a net operating loss under Section 172(b) of the Internal Revenue Code.**
 - (4) Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.**
 - (5) A taxpayer who makes an election under Section 172(b)(3)**

of the Internal Revenue Code to relinquish the carryback period with respect to a net operating loss for any taxable year shall be considered to have also relinquished the carryback of the Indiana net operating loss for purposes of this section.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

(h) An Indiana net operating loss deduction determined under this section shall be allowed notwithstanding the fact that in the year the taxpayer incurred the net operating loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer was:

(1) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or

(2) an insurance company subject to tax under Section 831 of the Internal Revenue Code.

(i) In the case of a life insurance company that claims an operations loss deduction under Section 810 of the Internal Revenue Code, this section shall be applied by:

(1) substituting the corresponding provisions of Section 810 of the Internal Revenue Code in place of references to Section 172 of the Internal Revenue; and

(2) substituting life insurance company taxable income (as defined in Section 801 the Internal Revenue Code) in place of references to taxable income (as defined in Section 63 of the Internal Revenue Code).

(j) For purposes of an amended return filed to carry back an Indiana net operating loss:

- (1) the term "due date of the return" as used in IC 6-8.1-9-1(a)(1) means the due date of the return for the taxable year in which the net operating loss was incurred; and**
- (2) the term "date the payment was due" as used in IC 6-8.1-9-2(c) means the due date of the return for the taxable year in which the net operating loss was incurred.**

SECTION 12. IC 6-3.1-4-6, AS AMENDED BY P.L.224-2003, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. ~~Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for Indiana qualified research expense incurred after December 31, 2013.~~ Notwithstanding Section 41 of the Internal Revenue Code, the termination date in Section 41(h) of the Internal Revenue Code does not apply to a taxpayer who is eligible for the credit under this chapter for the taxable year in which the Indiana qualified research expense is incurred.

SECTION 13. IC 6-3.1-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 7. As used in this chapter, "pass through entity" means **a:**

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2); or**
- (2) a partnership;**
- (3) trust;**
- (4) limited liability company; or**
- (5) limited liability partnership.**

SECTION 14. IC 6-3.1-13-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 21. (a) If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by**
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.**

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder or partner of a pass through entity is

otherwise entitled under a separate agreement under this chapter. A pass through entity and a shareholder or partner of the pass through entity may not claim more than one (1) credit under the same agreement.

(c) This subsection applies only to a pass through entity that is a limited liability company or a limited liability partnership owned wholly or in part by an electric cooperative incorporated under IC 8-1-13. At the request of a pass through entity, if the board finds that the amount of the average wage to be paid by the pass through entity will be at least double the average wage paid within the county in which the project will be located, the board may determine that:

- (1) the credit shall be claimed by the pass through entity; and**
- (2) if the credit exceeds the pass through entity's state income tax liability for the taxable year, the excess shall be refunded to the pass through entity.**

If the board grants a refund directly to a pass through entity under this subsection, the pass through entity shall claim the refund on forms prescribed by the department of state revenue.

SECTION 15. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] IC 6-3.1-13-7 and IC 6-3.1-13-21, both as amended by this act, apply to taxable years beginning after December 31, 2003.

SECTION 16. IC 6-3.1-26-26, AS ADDED BY P.L.224-2003, SECTION 197, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 26. **(a) This chapter applies to taxable years beginning after December 31, 2003.**

(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for a qualified investment made after December 31, ~~2005~~; **2007**. However, this section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, ~~2006~~; **2008**, forward to a taxable year beginning after December 31, ~~2005~~; **2007**, in the manner provided by section 15 of this chapter.

SECTION 17. P.L.224-2003, SECTION 198 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 18. IC 6-4.1-1-3, AS AMENDED BY HEA 1154-2004,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) "Class A transferee" means a transferee who is:

- (1) a lineal ancestor of the transferor;
- (2) a lineal descendant of the transferor; or
- (3) a stepchild of the transferor.

(b) "Class B transferee" means a transferee who is a:

- (1) brother or sister of the transferor;
- (2) descendant of a brother or sister of the transferor; or
- (3) spouse, widow, or widower of a child of the transferor.

(c) "Class C transferee" means a transferee, except a surviving spouse, who is neither a Class A nor a Class B transferee.

(d) For purposes of this section, a legally adopted child is to be treated as if the child were the natural child of the child's adopting parent **if the adoption occurred before the individual was totally emancipated**. For purposes of this section, if a relationship of loco parentis has existed for at least ten (10) years and if the relationship began before the child's fifteenth birthday, the child is to be considered the natural child of the loco parentis parent.

(e) As used in this section, "stepchild" means a child of the transferor's surviving, deceased, or former spouse who is not a child of the transferor.

SECTION 19. IC 6-2.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) As used in this section, a "power subsidiary" means a corporation which is owned or controlled by one (1) or more public utilities that furnish or sell electrical energy, natural or artificial gas, water, steam, or steam heat and which produces power exclusively for the use of those public utilities.

(b) A power subsidiary or a person engaged as a public utility is a retail merchant making a retail transaction when the subsidiary or person furnishes or sells electrical energy, natural or artificial gas, water, steam, or steam heating service to a person for commercial or domestic consumption.

(c) Notwithstanding subsection (b), a power subsidiary or a person engaged as a public utility is not a retail merchant making a retail transaction ~~when:~~ **in any of the following transactions:**

- (1) The power subsidiary or person provides, installs, constructs,

services, or removes tangible personal property which is used in connection with the furnishing of the services or commodities listed in subsection (b).

(2) The power subsidiary or person sells the services or commodities listed in subsection (b) to another public utility or power subsidiary described in this section or a person described in section 6 of this chapter. ~~or~~

(3) The power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are separately metered for the excepted uses listed in this subdivision, or if those sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision.

(4) The power subsidiary or person sells the services or commodities listed in subsection (b) and all the following conditions are satisfied:

(A) The services or commodities are sold to a business that after June 30, 2004:

- (i) relocates all or part of its operations to a facility; or**
- (ii) expands all or part of its operations in a facility;**

located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-30, an economic development area established under IC 36-7-14.5-12.5, or a military base recovery site designated under IC 6-3.1-11.5.

(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the operations that are relocated to the facility or expanded in the facility commence.

(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations. However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another

location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

SECTION 20. IC 6-3-2-1, AS AMENDED BY P.L.192-2002(ss), SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 1. (a) Each taxable year, a tax at the rate of three and four-tenths percent (3.4%) of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

(b) Except as provided in section 1.5 of this chapter, each taxable year, a tax at the rate of eight and five-tenths percent (8.5%) of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation.

SECTION 21. IC 6-3-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: **Sec. 1.5. (a) As used in this section, "qualified area" means:**

- (1) a military base (as defined in IC 36-7-30-1(c));**
- (2) a military base reuse area established under IC 36-7-30;**
- (3) an economic development area established under IC 36-7-14.5-12.5; or**
- (4) a military base recovery site designated under IC 6-3.1-11.5.**

(b) Except as provided in subsection (c), a tax at the rate of five percent (5%) of adjusted gross income is imposed on that part of the adjusted gross income of a corporation that is derived from sources within a qualified area if the corporation locates all or part of its operations in a qualified area during the taxable year, as determined under subsection (e). The tax rate under this section applies to the taxable year in which the corporation locates its operations in the qualified area and to the next succeeding four (4) taxable years.

(c) A taxpayer is not entitled to the tax rate described in subsection (b) to the extent that the taxpayer substantially reduces

or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

- (1) the taxpayer had existing operations in the qualified area; and
- (2) the operations relocated to the qualified area are an expansion of the taxpayer's operations in the qualified area.

(d) A determination under subsection (c) that a taxpayer is not entitled to the tax rate provided by this section as a result of a substantial reduction or cessation of operations applies to the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. Determinations under this section shall be made by the department of state revenue.

(e) The department of state revenue:

- (1) shall adopt rules under IC 4-22-2 to establish a procedure for determining the part of a corporation's adjusted gross income that was derived from sources within a qualified area; and
- (2) may adopt other rules that the department considers necessary for the implementation of this chapter.

SECTION 22. IC 6-3.1-11.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]:

Chapter 11.6. Military Base Investment Cost Credit

Sec. 1. As used in this chapter, "NAICS Manual" refers to the current edition of the North American Industry Classification System Manual - United States published by the National Technical Information Service of the United States Department of Commerce.

Sec. 2. As used in this chapter, "qualified area" means:

- (1) a military base (as defined in IC 36-7-30-1(c));
- (2) a military base reuse area established under IC 36-7-30;
- (3) an economic development area established under IC 36-7-14.5-12.5; or
- (4) a military base recovery site designated under IC 6-3.1-11.5.

Sec. 3. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

Sec. 4. As used in this chapter, "qualified investment" means any of the following:

(1) The purchase of an ownership interest in a business that locates all or part of its operations in a qualified area during the taxable year, if the purchase is approved by the department of commerce under section 12 of this chapter.

(2) Subject to section 13 of this chapter, an investment:

(A) that is made in a business that locates all or part of its operations in a qualified area during the taxable year;

(B) through which the taxpayer does not acquire an ownership interest in the business; and

(C) that is approved by the department of commerce under section 12 of this chapter.

Sec. 5. As used in this chapter, "SIC Manual" refers to the current edition of the Standard Industrial Classification Manual of the United States Office of Management and Budget.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "taxpayer" means an individual or pass through entity that has any state tax liability.

Sec. 8. As used in this chapter, "transfer ownership" means to purchase existing investment in a business, including real property, improvements to real property, or equipment.

Sec. 9. (a) A taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a qualified investment in that taxable year.

(b) The amount of the credit to which a taxpayer is entitled is the percentage determined under section 12 of this chapter multiplied by the amount of the qualified investment made by the taxpayer during the taxable year.

Sec. 10. (a) If a pass through entity is entitled to a credit under section 9 of this chapter but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, or member of the pass through entity is

entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

Sec. 11. (a) If the amount determined under section 9(b) of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for a subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of unused credit.

Sec. 12. (a) To be entitled to a credit for a purchase described in section 4(1) of this chapter, a taxpayer must request the department of commerce to determine:

- (1) whether a purchase of an ownership interest in a business located in a qualified area is a qualified investment; and
- (2) the percentage credit to be allowed.

The request must be made before a purchase is made.

(b) To be entitled to a credit for an investment described in section 4(2) of this chapter, a taxpayer must request the department of commerce to determine:

- (1) whether an investment in a business that locates in a qualified area during the taxable year is a qualified investment; and
- (2) the percentage credit to be allowed.

The request must be made before an investment is made.

(c) The department of commerce shall find that a purchase or other investment is a qualified investment if:

- (1) the business is viable;

- (2) the taxpayer has a legitimate purpose for purchase of the ownership interest or the investment;**
- (3) the purchase or investment would not be made unless a credit is allowed under this chapter; and**
- (4) the purchase or investment is critical to the commencement, enhancement, or expansion of business operations in the qualified area and:**

- (A) in the case of a purchase described in section 4(1) of this chapter, the purchase will not merely transfer ownership, and the purchase proceeds will be used only in business operations in the qualified area; and**

- (B) in the case of an investment described in section 4(2) of this chapter, the investment will not be made in a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, as described in section 13 of this chapter.**

(d) If the department of commerce finds that a purchase or other investment is a qualified investment, the department of commerce shall certify the percentage credit to be allowed under this chapter based upon the following:

- (1) For a purchase described in section 4(1) of this chapter, a percentage credit of ten percent (10%) may be allowed based on the need of the business for equity financing, as demonstrated by the inability of the business to obtain debt financing.**

- (2) A percentage credit of two percent (2%) may be allowed for purchases of or investments in business operations in the retail, professional, or warehouse/distribution codes of the SIC Manual (or corresponding sectors in the NAICS Manual).**

- (3) A percentage credit of five percent (5%) may be allowed for purchases of or investments in business operations in the manufacturing codes of the SIC Manual (or corresponding sectors in the NAICS Manual).**

- (4) A percentage credit of five percent (5%) may be allowed for purchases of or investments in high technology business operations (as defined in IC 4-4-6.1-1.3).**

- (5) A percentage credit may be allowed for jobs created during the twelve (12) month period following the purchase of**

an ownership interest in the business or other investment in the business, as determined under the following table:

JOBS CREATED	PERCENTAGE
Less than 11 jobs	1%
11 to 25 jobs	2%
26 to 40 jobs	3%
41 to 75 jobs	4%
More than 75 jobs	5%

(6) A percentage credit of five percent (5%) may be allowed if fifty percent (50%) or more of the jobs created in the twelve (12) month period following the purchase of an ownership interest in the business or other investment in the business will be reserved for residents in the qualified area.

(7) A percentage credit may be allowed for investments made in real or depreciable personal property, as determined under the following table:

AMOUNT OF INVESTMENT	PERCENTAGE
Less than \$25,001	1%
\$25,001 to \$50,000	2%
\$50,001 to \$100,000	3%
\$100,001 to \$200,000	4%
More than \$200,000	5%

The total percentage credit may not exceed thirty percent (30%).

(e) In the case of a purchase described in section 4(1) of this chapter, if all or a part of a purchaser's intent is to transfer ownership, the tax credit shall be applied only to that part of the purchase that relates directly to the enhancement or expansion of business operations in the qualified area.

Sec. 13. (a) This subsection applies to an investment described in section 4(2) of this chapter.

(b) A taxpayer is not entitled to claim the credit provided by this chapter to the extent that the taxpayer invests in a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

- (1) the business had existing operations in the qualified area; and
- (2) the operations relocated to the qualified area are an expansion of the business's operations in the qualified area.

(c) A determination under subsection (b) that a taxpayer is not entitled to the credit provided by this chapter as a result of a business's substantial reduction or cessation of operations applies to credits that would otherwise arise in the taxable year:

- (1) in which the substantial reduction or cessation occurs; or
- (2) in which the taxpayer proposes to make the investment in the business, if different than the taxable year described in subdivision (1).

Determinations under this section shall be made by the department of state revenue.

Sec. 14. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue the certification of the percentage credit by the department of commerce and all information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter and for the determination of whether an investment is a qualified investment.

SECTION 23. IC 36-7-32-11, AS ADDED BY P.L.192-2002(ss), SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) After receipt of an application under section 10 of this chapter, and subject to subsection (b), the department of commerce may designate a certified technology park if the department determines that the application demonstrates a firm commitment from at least one (1) business engaged in a high technology activity creating a significant number of jobs and satisfies one (1) or more of the following additional criteria:

- (1) A demonstration of significant support from an institution of higher education, ~~or~~ a private research based institute, ~~or~~ **a military research and development or testing facility on an active United States government military base or other military installation** located within, or in the vicinity of, the proposed certified technology park, as evidenced by the following criteria:

- (A) Grants of preferences for access to and commercialization of intellectual property.
- (B) Access to laboratory and other facilities owned by or under

the control of the institution of higher education or private research based institute.

(C) Donations of services.

(D) Access to telecommunications facilities and other infrastructure.

(E) Financial commitments.

(F) Access to faculty, staff, and students.

(G) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(H) Other criteria considered appropriate by the department.

(2) A demonstration of a significant commitment by the institution of higher education, ~~or~~ private research based institute, **or military research and development or testing facility on an active United States government military base or other military installation** to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(3) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(4) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(A) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(B) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(C) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(5) The existence of a business plan for the proposed certified

technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

- (A) A commitment to new business formation.
 - (B) The clustering of businesses, technology, and research.
 - (C) The opportunity for and costs of development of properties under common ownership or control.
 - (D) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.
 - (E) Assumptions of costs and revenues related to the development of the proposed certified technology park.
- (6) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain property that is primarily used for, or will be primarily used for, a high technology activity or a business incubator.

(b) The department of commerce may not approve an application that would result in a substantial reduction or cessation of operations in another location in Indiana in order to relocate them within the certified technology park.

SECTION 24. [EFFECTIVE JANUARY 1, 2005] IC 6-3-2-1, as amended by this act, and IC 6-3-2-1.5 and IC 6-3.1-11.6, both as added by this act, apply to taxable years beginning after December 31, 2004.

SECTION 25. [EFFECTIVE JULY 1, 2004] IC 6-2.5-4-5, as amended by this act, applies to transactions that occur after June 30, 2004.

SECTION 26. IC 32-24-1-4, AS ADDED BY P.L.2-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) If the person seeking to acquire the property does not agree with the owner of an interest in the property or with the guardian of an owner concerning the damages sustained by the owner, the person seeking to acquire the property may file a complaint for that purpose with the clerk of the circuit court of the county where the property is located.

(b) The complaint must state the following:

- (1) The name of the person seeking to acquire the property. This person shall be named as the plaintiff.

(2) The names of all owners, claimants to, and holders of liens on the property, if known, or a statement that they are unknown. These owners, claimants, and holders of liens shall be named as defendants.

(3) The use the plaintiff intends to make of the property or right sought to be acquired.

(4) If a right-of-way is sought, the location, general route, width, and the beginning and end points of the right-of-way.

(5) A specific description of each piece of property sought to be acquired and whether the property includes the whole or only part of the entire parcel or tract. If property is sought to be acquired by the state or by a county for a public highway or by a municipal corporation for a public use and the acquisition confers benefits on any other property of the owner, a specific description of each piece of property to which the plaintiff alleges the benefits will accrue. Plats of property alleged to be affected may accompany the descriptions.

(6) That the plaintiff has been unable to agree for the purchase of the property with the owner, owners, or guardians, as the case may be, or that the owner is mentally incompetent or less than eighteen (18) years of age and has no legally appointed guardian, or is a nonresident of Indiana.

(c) All parcels lying in the county and required for the same public use, whether owned by the same parties or not, may be included in the same or separate proceedings at the option of the plaintiff. However, the court may consolidate or separate the proceedings to suit the convenience of parties and the ends of justice. The filing of the complaint **and a lis pendens notice in any eminent domain action under this article** constitutes notice of proceedings to all subsequent purchasers and persons taking encumbrances of the property, who are bound by the notice.

SECTION 27. IC 32-34-1-28, AS AMENDED BY P.L.107-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28. (a) Except as provided in subsection (e), the attorney general shall publish a notice not later than November 30 of the year immediately following the year in which unclaimed property has been paid or delivered to the attorney general.

(b) Except as provided in subsection (c), the notice required by

subsection (a) must be published at least once each week for two (2) successive weeks in a newspaper of general circulation published in the county in Indiana of the last known address of any person named in the notice.

(c) If the holder:

- (1) does not report an address for the apparent owner; or
- (2) reports an address outside Indiana;

the notice must be published in the county in which the holder has its principal place of business within Indiana or any other county that the attorney general may reasonably select.

(d) The advertised notice required by this section must be in a form that, in the judgment of the attorney general, will attract the attention of the apparent owner of the unclaimed property and must contain the following information:

- (1) The name of each person appearing to be an owner of property that is presumed abandoned, as set forth in the report filed by the holder.
- (2) The last known address or location of each person appearing to be an owner of property that is presumed abandoned, if an address or a location is set forth in the report filed by the holder.
- (3) A statement explaining that the property of the owner is presumed to be abandoned and has been taken into the protective custody of the attorney general.
- (4) A statement that information about the abandoned property and its return to the owner is available, upon request, from the attorney general, to a person having a legal or beneficial interest in the property.

(e) The attorney general is not required to publish the following in the notice:

- (1) Any item with a value of less than one hundred dollars (\$100).
- (2) Information concerning a traveler's check, money order, or any similar instrument.
- (3) Property reported as a result of a demutualization of an insurance company.**

SECTION 28. IC 32-34-1-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28.5. (a) The attorney general shall publish a notice not later than November 30 of the year**

immediately following the year in which unclaimed property as a result of a demutualization of an insurance company has been paid or delivered to the attorney general.

(b) The notice required by subsection (a) must be published at least once in a newspaper of general circulation published in the county of Indiana of the last known address of any person named in the notice.

(c) If the holder does not report an address for the apparent owner, the notice must be published in the county in which the holder has its principal place of business within Indiana or any other county that the attorney general may reasonably select.

(d) The advertised notice required by this section must be in a form that, in the judgment of the attorney general, will attract the attention of the apparent owner of the unclaimed property. The advertised notice is not subject to the rate prescribed in IC 5-3-1-1. The rate may not be higher than the rate set in IC 5-3-1-1.

(e) The advertised notice must contain the following information:

(1) The name of each person appearing to be an owner of property that is presumed abandoned, as set forth in the report filed by the holder.

(2) The last known address or location of each person appearing to be an owner of property that is presumed abandoned, if an address or a location is set forth in the report filed by the holder.

(3) A statement explaining that the property of the owner is presumed to be abandoned and has been taken into protective custody of the attorney general.

(4) A statement that information about the abandoned property and its return to the owner is available, upon request, from the attorney general, to a person having a legal or beneficial interest in the property.

(f) The attorney general is not required to include any item with a value of less than one hundred dollars (\$100) in the notice.

SECTION 29. IC 6-3.1-19-3, AS AMENDED BY P.L.224-2003, SECTION 196, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Subject to section 5 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified

investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is the qualified investment made by the taxpayer during the taxable year multiplied by twenty-five percent (25%).

(c) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to a lessee of property redeveloped or rehabilitated under section 2 of this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(d) An assignment under subsection (c) must be in writing and both the taxpayer and the lessee must report the assignment on their state tax return for the year in which the assignment is made, in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

(e) If a pass through entity is entitled to a credit under this chapter but does not have state and local tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

(f) A taxpayer that is otherwise entitled to a credit under this chapter for a taxable year may claim the credit regardless of whether any income tax incremental amount or gross retail incremental amount has been:

- (1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or**
- (2) allocated to the district.**

SECTION 30. IC 6-3.1-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) ~~Except as provided in subsection (b);~~ A taxpayer is not entitled to claim the credit

provided by this chapter to the extent that the taxpayer substantially reduces or ceases its operations in Indiana in order to relocate them within the district.

(b) Notwithstanding subsection (a), a taxpayer's substantial reduction or cessation of operations in Indiana in order to relocate operations to a district does not make a taxpayer ineligible for a credit under this chapter if: (1)

Determinations under this section shall be made by the department. The department shall adopt a proposed order concerning a taxpayer's eligibility for the credit based on subsection (b) and the following criteria:

(1) A site-specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time or part-time employees, shall be considered a business operation.

(2) With respect to an operation located outside the district (referred to in this section as a "nondistrict operation"), any of the following that occurs during the twelve (12) months before the completion of the physical relocation of all or part of the activity described in subdivision (1) from the nondistrict operation to the district as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

(A) A reduction in the average number of full-time or part-time employees of the lesser of one hundred (100) employees or twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a taxpayer that would otherwise be disqualified under subsection (a) is eligible for the credit provided by this chapter if the taxpayer meets at least one (1) of the following conditions:

(1) The taxpayer relocates all or part of its nondistrict

operation for any of the following reasons:

- (A) The lease on property necessary for the nondistrict operation has been involuntarily lost through no fault of the taxpayer.
- (B) The space available at the location of the nondistrict operation cannot accommodate planned expansion needed by the taxpayer.
- (C) The building for the nondistrict operation has been certified as uninhabitable by a state or local building authority.
- (D) The building for the nondistrict operation has been totally destroyed through no fault of the taxpayer.
- (E) The renovation and construction costs at the location of the nondistrict operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the district, as certified by three (3) independent estimates.
- (F) The taxpayer had existing operations in the district and ~~(2)~~ the **nondistrict** operations relocated to the district are an expansion of the taxpayer's operations in the district.

A taxpayer is eligible for benefits and incentives under clause (C) or (D) only if renovation and construction costs at the location of the nondistrict operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the district. These costs must be certified by three (3) independent estimates.

(2) The taxpayer has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nondistrict operation without the consent of the employees.

(c) The department shall cause to be delivered to the taxpayer and to any person who testified before the department in favor of disqualification of the taxpayer a copy of the department's proposed order. The taxpayer and these persons shall be considered parties for purposes of this section.

(d) A party who wishes to appeal the proposed order of the department shall, within ten (10) days after the party's receipt of the proposed order, file written objections with the department. The department shall immediately forward copies of the objections

to the director of the budget agency and the director of the department of commerce. A hearing panel composed of the commissioner of the department or the commissioner's designee, the director of the budget agency or the director's designee, and the director of the department of commerce or the director's designee shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the hearing panel a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the hearing panel. The hearing panel may hear additional evidence or remand the action to the department with instructions appropriate to the expeditious and proper disposition of the action. The hearing panel may adopt the proposed order of the department, may amend or modify the proposed order, or may make such order or determination as is proper on the record. The affirmative votes of at least two (2) members of the hearing panel are required for the hearing panel to take action on any measure. The taxpayer may appeal the decision of the hearing panel to the tax court in the same manner that a final determination of the department may be appealed under IC 33-3-5.

(e) If no objections are filed, the department may adopt the proposed order without oral argument.

~~(e) (f)~~ A determination that a taxpayer is not entitled to the credit provided by this chapter as a result of a substantial reduction or cessation of operations applies to credits that would otherwise arise in the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. ~~Determinations under this section shall be made by the department of state revenue.~~

SECTION 31. IC 36-7-13-2.4, AS AMENDED BY P.L.178-2002, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.4. Except as provided in section 10.7(c) of this chapter, as used in this chapter, "gross retail base period amount" means:

- (1) the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a district during the full state fiscal year that precedes the date on which:

(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or
 (B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter; ~~or~~

(2) an amount equal to:

(A) the aggregate amount of state gross retail and use taxes remitted:

(i) under IC 6-2.5 by the businesses operating in the territory comprising a district; and

(ii) during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by

(B) twelve (12);

in the case of a district that is described in section 12(c) of this chapter; ~~or~~

(3) an amount equal to the amount determined under subdivision (1) or (2); plus:

(A) the aggregate amount of state gross retail and use taxes remitted:

(i) under IC 6-2.5 by the businesses operating in the territory added to the district; and

(ii) during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by

(B) twelve (12);

in the case of a district modified under section 12.5 of this chapter.

SECTION 32. IC 36-7-13-3.2, AS AMENDED BY P.L.178-2002, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.2. Except as provided in section 10.7(d) of this chapter, as used in this chapter, "income tax base period amount" means:

(1) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district for the state fiscal year that precedes the date on which:

(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or
 (B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter; ~~or~~

(2) an amount equal to:

(A) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by

(B) twelve (12);

in the case of a district that is described in section 12(c) of this chapter; ~~or~~

(3) an amount equal to the amount determined under subdivision (1) or (2); plus:

(A) the aggregate amount of state and local income taxes paid by employees employed in the territory added to the district with respect to wages and salary earned for work in the modified district during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by

(B) twelve (12);

in the case of a district modified under section 12.5 of this chapter.

SECTION 33. IC 36-7-13-10.5, AS AMENDED BY P.L.178-2002, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) This section applies only to a county that meets the following conditions:

(1) The county's annual rate of unemployment has been above the average annual statewide rate of unemployment during at least three (3) of the preceding five (5) years.

(2) The median income of the county has:

(A) declined over the preceding ten (10) years; or

(B) has grown at a lower rate than the average annual

statewide growth in median income during at least three (3) of the preceding five (5) years.

(3) The population of the county (as determined by the legislative body of the county) has declined over the preceding ten (10) years.

(b) Except as provided in section 10.7 of this chapter, in a county described in subsection (a), the legislative body of the county may adopt an ordinance designating an unincorporated part or unincorporated parts of the county as a district, and the legislative body of a municipality located within the county may adopt an ordinance designating a part or parts of the municipality as a district, if the legislative body finds all of the following:

(1) The area to be designated as a district contains a building or buildings that:

(A) have a total of at least fifty thousand (50,000) square feet of usable interior floor space; and

(B) are vacant or will become vacant due to the relocation of the employer or the cessation of operations on the site by the employer.

(2) Significantly fewer persons are employed in the area to be designated as a district than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment in the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination or remediation.

(c) A legislative body adopting an ordinance under subsection (b) shall designate the duration of the district. However, ~~the duration may not exceed a district must terminate not later than~~ fifteen (15) years ~~from the time of designation.~~ **after the income tax incremental amount or gross retail incremental amount is first allocated to the district.**

(d) Except as provided in section 10.7 of this chapter, upon adoption of an ordinance designating a district, the legislative body shall submit

the ordinance to the budget committee for review and recommendation to the budget agency. **If the budget agency fails to take action on an ordinance designating a district within one hundred twenty (120) days after the date that the ordinance is submitted to the budget committee, the designation of the district by the ordinance is considered approved.**

(e) Except as provided in section 10.7 of this chapter, when considering the designation of a district by an ordinance adopted under this section, the budget committee and the budget agency must make the following findings before approving the designation of the district:

- (1) The area to be designated as a district meets the conditions necessary for the designation as a district.
- (2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(f) Except as provided in section 10.7 of this chapter, the income tax incremental amount and the gross retail incremental amount may not be allocated to the district until ~~the budget agency approves~~ the designation of the district by the local ordinance **is approved under this section.**

SECTION 34. IC 36-7-13-12, AS AMENDED BY P.L.224-2003, SECTION 238, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it makes the findings described in subsection (b), (c), (d), or (e). In a county described in subsection (c), an advisory commission may designate more than one (1) district under subsection (c).

(b) For an area located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:

(A) with at least one million (1,000,000) square feet of usable interior floor space; and

(B) that is or are vacant or will become vacant due to the relocation of an employer.

(2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars (\$100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(c) For a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000), an advisory commission may adopt a resolution designating not more than two (2) areas as districts. An advisory commission may designate an area as a district only after finding the following:

(1) The area meets either of the following conditions:

(A) The area contains a building with at least seven hundred ninety thousand (790,000) square feet, and at least eight hundred (800) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(B) The area contains a building with at least ~~four hundred forty thousand (440,000)~~ **three hundred eighty-six thousand (386,000)** square feet, and at least four hundred (400) fewer people are employed in the area than were employed in the

area during the year that is fifteen (15) years previous to the current year.

- (2) The area is located in or is adjacent to an industrial park.
- (3) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.

- (4) The area is located in a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).

(d) For an area located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:
 - (A) with at least one million five hundred thousand (1,500,000) square feet of usable interior floor space; and
 - (B) that is or are vacant or will become vacant.
- (2) At least eighteen thousand (18,000) fewer persons are employed in the area at the time of application than were employed in the area before the time of application.
- (3) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.

- (4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars (\$100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

- (5) The area is located in a county having a population of more

than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(e) For an area located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:
 - (A) with at least eight hundred thousand (800,000) gross square feet; and
 - (B) having leasable floor space, at least fifty percent (50%) of which is or will become vacant.
- (2) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings as evidenced by a decline of at least seventy-five percent (75%) in their assessed valuation during the preceding ten (10) years.
 - (B) Transportation or access problems.
 - (C) Environmental contamination.
- (3) At least four hundred (400) fewer persons are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.
- (4) The area has been designated as an economic development target area under IC 6-1.1-12.1-7.
- (5) The unit has appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subdivision (2).
- (6) The area is located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The advisory commission, or the county or municipal legislative body, in the case of a district designated under section 10.5 of this chapter, shall designate the duration of the district. ~~but the duration may not exceed~~ **However, a district must terminate not later than fifteen (15) years (at the time of designation): after the income tax incremental amount or gross retail incremental amount is first allocated to the district.**

(g) Upon adoption of a resolution designating a district, the advisory

commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. **If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.**

(h) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(i) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until ~~the budget agency approves~~ **the resolution is approved under this section.**

SECTION 35. IC 36-7-13-12.1, AS ADDED BY P.L.224-2003, SECTION 239, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12.1. (a) If the executive of a city described in section 10.1(a) of this chapter has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:

(1) That the redevelopment of the area in the district will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the area; or

(C) retain or expand a significant business enterprise within the area.

(2) That there are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or ineffective utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

- (E) Topographical obstacles to redevelopment.
- (F) Environmental contamination.
- (G) Lack of development or cessation of growth.
- (H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.
- (I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the city may make expenditures for:

- (1) the acquisition of land;
- (2) interests in land;
- (3) site improvements;
- (4) infrastructure improvements;
- (5) buildings;
- (6) structures;
- (7) rehabilitation, renovation, and enlargement of buildings and structures;
- (8) machinery;
- (9) equipment;
- (10) furnishings;
- (11) facilities;
- (12) administration expenses associated with such a project;
- (13) operating expenses; or
- (14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the city described in section 10.1(a) of this chapter has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. ~~but the duration may not exceed~~ **However, a district must terminate not later than** fifteen (15) years ~~(at the time of designation).~~ **after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.**

(e) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for

review and recommendation to the budget agency. **If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.**

(f) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(g) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the ~~budget agency approves the~~ resolution **is approved under this section.**

SECTION 36. IC 36-7-13-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12.5. (a) An advisory commission on industrial development that designates a district under section 12 or 12.1 of this chapter or the legislative body of a county or municipality that adopts an ordinance designating a district under section 10.5 of this chapter may petition for permission to modify the boundaries of the district. The petition must be submitted to the budget committee for review and recommendation to the budget agency.**

(b) When considering a petition submitted under subsection (a), the budget committee and the budget agency must make the following findings:

(1) The area to be added to the district, if any, meets the conditions necessary for designation as a district under section 10.5, 12, or 12.1 of this chapter.

(2) The proposed modification of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(c) Upon approving a petition submitted under subsection (a), the budget agency shall certify the district's modified boundaries to the department of state revenue.

SECTION 37. IC 36-7-13-13, AS AMENDED BY P.L.224-2003, SECTION 240, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) If an advisory commission on industrial development designates a district under section 12 or 12.1 of this chapter or if the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall send a certified copy of the resolution or ordinance designating the district to the department of state revenue by certified mail and shall include with the resolution a complete list of the following:

- (1) Employers in the district.
- (2) Street names and the range of street numbers of each street in the district.

(b) The advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall update the list:

- (1) before July 1 of each year; or
- (2) **within fifteen (15) days after the date that the budget agency approves a petition to modify the boundaries of the district under section 12.5 of this chapter.**

~~(b)~~ (c) Not later than sixty (60) days after receiving a copy of the resolution or ordinance designating a district, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

(d) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the gross retail base period amount and the income tax base period amount for a district modified under section 12.5 of this chapter.

SECTION 38. IC 36-7-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

(b) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this

chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

SECTION 39. [EFFECTIVE JULY 1, 2004] (a) An advisory commission or a legislative body that designated a community revitalization enhancement district before July 1, 2004, may adopt a resolution before July 1, 2005, to amend the duration of the district under IC 36-7-13-10.5, IC 36-7-13-12, or IC 36-7-13-12.1, all as amended by this act, if no income tax incremental amounts or gross retail incremental amounts have been:

- (1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or
- (2) allocated to the district.

(b) If an advisory commission or a legislative body adopts a resolution under this SECTION to amend the duration of the district, the advisory commission or legislative body shall immediately send a certified copy of the resolution to the budget agency and the department of state revenue by certified mail.

(c) This SECTION expires January 1, 2006.

SECTION 40. [EFFECTIVE JULY 1, 2004] IC 6-3.1-19-3, as amended by this act, applies only to taxable years beginning after December 31, 2004.

SECTION 41. IC 6-8.1-3-16, AS AMENDED BY P.L.192-2002(ss), SECTION 141, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) The department shall prepare a list of all outstanding tax warrants for listed taxes each month. The list shall identify each taxpayer liable for a warrant by name, address, amount of tax, and either Social Security number or employer identification number. Unless the department renews the warrant, the department shall exclude from the list a warrant issued more than ten (10) years before the date of the list. The department shall certify a copy of the list to the bureau of motor vehicles.

(b) The department shall prescribe and furnish tax release forms for use by tax collecting officials. A tax collecting official who collects taxes in satisfaction of an outstanding warrant shall issue to the taxpayers named on the warrant a tax release stating that the tax has been paid. The department may also issue a tax release:

- (1) to a taxpayer who has made arrangements satisfactory to the department for the payment of the tax; or
 - (2) by action of the commissioner under IC 6-8.1-8-2(k).
- (c) The department may not issue or renew:
- (1) a certificate under IC 6-2.5-8;
 - (2) a license under IC 6-6-1.1 or IC 6-6-2.5; or
 - (3) a permit under IC 6-6-4.1;

to a taxpayer whose name appears on the most recent monthly warrant list, unless that taxpayer pays the tax, makes arrangements satisfactory to the department for the payment of the tax, or a release is issued under IC 6-8.1-8-2(k).

(d) The bureau of motor vehicles shall, before issuing the title to a motor vehicle under IC 9-17, determine whether the purchaser's or assignee's name is on the most recent monthly warrant list. If the purchaser's or assignee's name is on the list, the bureau shall enter as a lien on the title the name of the state as the lienholder unless the bureau has received notice from the commissioner under IC 6-8.1-8-2(k). The tax lien on the title:

- (1) is subordinate to a perfected security interest (as defined and perfected in accordance with IC 26-1-9.1); and
- (2) shall otherwise be treated in the same manner as other title liens.

(e) The commissioner is the custodian of all titles for which the state is the sole lienholder under this section. Upon receipt of the title by the department, the commissioner shall notify the owner of the department's receipt of the title.

(f) The department shall reimburse the bureau of motor vehicles for all costs incurred in carrying out this section.

(g) Notwithstanding IC 6-8.1-8, a person who is authorized to collect taxes, interest, or penalties on behalf of the department under IC 6-3 or IC 6-3.5 may not, except as provided in subsection (h) or (i), receive a fee for collecting the taxes, interest, or penalties if:

- (1) the taxpayer pays the taxes, interest, or penalties as consideration for the release of a lien placed under subsection (d) on a motor vehicle title; or
- (2) the taxpayer has been denied a certificate or license under subsection (c) within sixty (60) days before the date the taxes, interest, or penalties are collected.

- (h) In the case of a sheriff, subsection (g) does not apply if:
 - (1) the sheriff collects the taxes, interest, or penalties within sixty (60) days after the date the sheriff receives the tax warrant; or
 - (2) the sheriff collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).
- (i) In the case of a person other than a sheriff:
 - (1) subsection (g)(2) does not apply if the person collects the taxes, interests, or penalties within sixty (60) days after the date the commissioner employs the person to make the collection; and
 - (2) subsection (g)(1) does not apply if the person collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

(j) IC 5-14-3-4, IC 6-8.1-7-1, and any other law exempting information from disclosure by the department does not apply to this subsection. From the list prepared under subsection (a), the department shall compile each month a list of the taxpayers subject to tax warrants that:

(1) were issued at least twenty-four (24) months before the date of the list; and

(2) are for amounts that exceed one thousand dollars (\$1,000).

The list compiled under this subsection must identify each taxpayer liable for a warrant by name, address, and amount of tax. The department shall publish the list compiled under this subsection on accessIndiana (as defined in IC 5-21-1-1.5) and make the list available for public inspection and copying under IC 5-14-3. The department or an agent, employee, or officer of the department is immune from liability for the publication of information under this subsection.

(k) The department may not publish a list under subsection (j) that identifies a particular taxpayer unless at least two (2) weeks before the publication of the list the department sends notice to the taxpayer stating that the taxpayer:

(1) is subject to a tax warrant that:

(A) was issued at least twenty-four (24) months before the date of the notice; and

(B) is for an amount that exceeds one thousand dollars

(\$1,000); and

(2) will be identified on a list to be published on accessIndiana unless a tax release is issued to the taxpayer under subsection (b).

(l) The department may not publish a list under subsection (j) after June 30, 2006.

SECTION 42. IC 34-30-2-16.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16.7. IC 6-8.1-3-16(j) (Concerning the department of state revenue for publishing a list of delinquent taxpayers).

SECTION 43. IC 4-4-32 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 32. Twenty-First Century Research and Technology Fund Grant Office

Sec. 1. As used in this chapter, "office" refers to the grant office established by section 3 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the Indiana twenty-first century research and technology fund established by IC 4-4-5.1-3.

Sec. 3. The fund board may establish and administer a grant office to assist state agencies, units of local government, public and private colleges and universities, private sector for-profit and nonprofit entities, and other entities in Indiana in researching, developing, and receiving grants and funding from:

- (1) the federal government;**
- (2) private foundations; or**
- (3) any other source of funding.**

Sec. 4. The office may do the following:

(1) Work with and coordinate with state, university, and private entities that are responsible for the identification and acquisition of research and development grants and funds and other sources of assistance to do the following:

- (A) Share information.**
- (B) Leverage skills and assets.**
- (C) Jointly market their respective programs to the widest possible population in Indiana.**

(2) Serve as a repository and clearinghouse for information

concerning available research and development grants and funds and other sources of assistance.

Sec. 5. The office may establish and maintain a list of all:

- (1) Indiana state and local governmental entities;
- (2) public and private colleges and universities; and
- (3) private sector for-profit and nonprofit entities;

that are actively seeking research and development money and may benefit from assistance in acquiring research and development funding from a source described in section 3 of this chapter.

Sec. 6. (a) The office may assist potential funding recipients described in section 5 of this chapter in preparing applications and all other documentation to aggressively seek funding.

(b) The office may give priority to assisting the following:

- (1) Highly ranked applicants for grants from the fund.
- (2) Entities with proposal concepts that the fund board determines are consistent with state strategic objectives.
- (3) Opportunities with strong commercial potential for Indiana.
- (4) Opportunities that have substantial private entity interest and participation.

Sec. 7. The office may accept:

- (1) appropriations from the general assembly; and
- (2) gifts and donations from any other source;

to further the activities of the office.

SECTION 44. IC 4-4-5.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 5.2. Emerging Technology Grant Fund

Sec. 1. As used in this chapter, "board" refers to the Indiana twenty-first century research and technology fund board established by IC 4-4-5.1-6.

Sec. 2. As used in this chapter, "fund" refers to the emerging technology grant fund established by section 5 of this chapter.

Sec. 3. As used in this chapter, "small business" means a business that satisfies all the following:

- (1) The business is independently owned and operated.
- (2) The principal office of the business is located in Indiana.
- (3) The business satisfies either of the following:

- (A) The business has not more than:**
 - (i) one hundred (100) employees; and**
 - (ii) average annual gross receipts of ten million dollars (\$10,000,000).**
- (B) If the business is a manufacturing business, the business does not have more than one hundred (100) employees.**

Sec. 4. As used in this chapter, "small sized technology based business" means a small business engaged in any of the following:

- (1) Life sciences.**
- (2) Information technology.**
- (3) Advanced manufacturing.**
- (4) Logistics.**

Sec. 5. (a) The emerging technology grant fund is established to provide grants to match federal grants for small sized technology based businesses to be used to accelerate commercialization of emerging technologies.

(b) The fund consists of appropriations from the general assembly and gifts and grants to the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

(e) Money in the fund is continuously appropriated for the purposes of this chapter.

Sec. 6. The purpose of the grant program is to do the following:

- (1) Assist Indiana businesses to compete nationally for federal research and development awards.**
- (2) Provide matching grants that focus on small sized technology based businesses in industry sectors vital to Indiana's economic growth.**

Sec. 7. (a) The board shall administer the grant program under this chapter.

(b) The board shall award grants to support projects that leverage private sector, federal, and state resources to create new globally competitive commercial products or services that will enhance economic growth and job creation in Indiana.

(c) The board may award grants only to businesses that receive federal grant awards.

(d) In awarding grants, the board shall give preference to proposals from businesses that include other Indiana based organizations. However, the amount of the grant may be measured only against the federal money allocated to the small sized technology based business partner.

(e) The board shall consider the following when making grants under this chapter:

(1) Whether the grant will increase the viability of the applicant's project.

(2) Whether the grant will attract additional federal research, development, and commercialization money.

(3) Whether the grant will assist in accelerating the introduction of technology based products in the market.

(4) Whether the grant will produce additional technology based jobs in Indiana.

(5) Other factors the board considers relevant.

(f) An applicant for a grant under this chapter must be in the process of applying for, have applied for, or have received a federal grant for the proposed project. If the applicant has already received a federal grant for the proposed project, the start date of the federal award must be after June 30, 2003.

(g) Any federal program may serve as the basis for a grant under this chapter if all the following are satisfied:

(1) The applicant's federal proposal is a response to a nationally competitive federal solicitation.

(2) The federal program provides money to develop, revise, or commercialize a new technology.

(3) The federal program accepts matching funds.

(4) The applicant's federal proposal includes the state as a potential funding source.

Sec. 8. Before July 1 of each year, the board shall establish and publish guidelines determining the following:

(1) Priority industries and technological areas for grants under this chapter.

(2) Matching levels for the different priorities established under subdivision (1). The matching level may not be more than one dollar (\$1) for each federal dollar received by an

applicant.

(3) The maximum dollar amount that may be awarded for a proposal. The maximum dollar amount may not exceed one hundred fifty thousand dollars (\$150,000) for each business for each proposal.

SECTION 45. IC 36-1-8-5.1, AS AMENDED BY P.L.267-2003, SECTION 15, AND P.L.173-2003, SECTION 19, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund *to receive transfers of unused and unencumbered funds under: (1) section 5 of this chapter; (2) IC 6-3.5-1.1-21.1; (3) IC 6-3.5-6-17.3; and (4) IC 6-3.5-7-17.3.* by the adoption of:

- (1) an ordinance, in the case of a county, city, or town; or
- (2) a resolution, in the case of any other political subdivision.

(b) An ordinance or a resolution adopted under this section must specify the following:

- (1) The purposes of the rainy day fund.
- (2) The sources of funding for the rainy day fund, **which may include the following:**

(A) Unused and unencumbered funds under:

- (i) section 5 of this chapter;**
- (ii) IC 6-3.5-1.1-21.1;**
- (iii) IC 6-3.5-6-17.3; or**
- (iv) IC 6-3.5-7-17.3.**

(B) Any other funding source:

- (i) specified in the ordinance or resolution adopted under this section; and**
- (ii) not otherwise prohibited by law.**

~~(b)~~ (c) The rainy day fund is subject to the same appropriation process as other funds that receive tax money. *Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund.*

~~(c)~~ (d) In any fiscal year, a political subdivision may transfer *under section 5 of this chapter* not more than ten percent (10%) of the political subdivision's total *annual* budget for that fiscal year, *adopted under IC 6-1.1-17,* to the rainy day fund.

~~(d)~~ (e) A political subdivision may use only the funding sources

*specified in subsection (b)(2)(A) or in the ordinance or resolution establishing the rainy day fund. ~~unless~~ The political subdivision ~~adopts~~ **may adopt** a subsequent ordinance or resolution authorizing the use of another funding source.*

(f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

SECTION 46. IC 36-4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Municipalities are classified according to their status and population as follows:

STATUS AND POPULATION	CLASS
Cities of 250,000 500,000 or more	First class cities
Cities of 35,000 to 249,999 499,999	Second class cities
Cities of less than 35,000	Third class cities
Other municipalities of any population	Towns

(b) Except as provided in subsection (c), a city that attains a population of thirty-five thousand (35,000) remains a second class city even though its population decreases to less than thirty-five thousand (35,000) at the next federal decennial census.

(c) The legislative body of a city to which subsection (b) applies may, by ordinance, adopt third class city status.

SECTION 47. IC 36-9-41 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 41. Financing of Public Work Projects by Political Subdivisions

Sec. 1. This chapter applies to a public work project that will cost the political subdivision not more than two million dollars (\$2,000,000).

Sec. 2. As used in this chapter, "public work" means a project for the construction of any public building, highway, street, alley, bridge, sewer, drain, or any other public facility that is paid for out of public funds.

Sec. 3. Notwithstanding any other statute, a political subdivision may borrow the money necessary to finance a public work project from a financial institution in Indiana by executing a negotiable

note under section 4 of this chapter. The political subdivision shall provide notice of its determination to issue the note under IC 5-3-1. Money borrowed under this chapter is chargeable against the political subdivision's constitutional debt limitation.

Sec. 4. A political subdivision borrowing money under section 3 of this chapter shall execute and deliver to the financial institution the negotiable note of the political subdivision for the sum borrowed. The note must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding six (6) years.

Sec. 5. (a) The first installment of principal and interest on a note executed under this chapter is due on the next January 1 or July 1 following the first tax collection for which it is possible for the political subdivision to levy a tax under subsection (b).

(b) The political subdivision shall appropriate an amount for and levy a tax each year sufficient to pay the political subdivision's obligation under the note according to its terms.

(c) An obligation of a political subdivision under a note executed under this chapter is a valid and binding obligation of the political subdivision, notwithstanding any tax limitation, debt limitation, bonding limitation, borrowing limitation, or other statute to the contrary.

Sec. 6. If a political subdivision gives notice under section 3 of this chapter of its determination that money should be borrowed under this chapter, not less than ten (10) taxpayers in the political subdivision who disagree with the determination may file a petition in the office of the county auditor not more than thirty (30) days after notice of the determination is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the borrowing to be unnecessary or unwise.

Sec. 7. (a) Upon receiving a petition under section 6 of this chapter, the county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for a hearing on the matter.

(b) The hearing shall be held not less than five (5) and not more

than thirty (30) days after the department's receipt of the certified petition, and shall be held in the county where the petition arose.

(c) The department of local government finance shall give notice of the hearing by letter to the political subdivision and to the first ten (10) taxpayer petitioners listed on the petition. A copy of the letter shall be sent to each of the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing. In addition, public notice shall be published at least five (5) days before the date of the hearing under IC 5-3-1.

(d) After the hearing under subsection (c), the department of local government shall issue a final determination concerning the petition.

Sec. 8. A:

(1) taxpayer who signed a petition filed under section 6 of this chapter; or

(2) political subdivision against which a petition is filed under section 6 of this chapter;

may petition the tax court established by IC 33-3-5-1 for judicial review of the final determination of the department of local government finance on the taxpayers' petition. The petition for judicial review must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

SECTION 48. IC 6-1.1-12.1-1, AS AMENDED BY P.L.4-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. For purposes of this chapter:

(1) "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

(A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located

and where the obsolescence may lead to a decline in employment and tax revenues; and

(B) a residentially distressed area, except as otherwise provided in this chapter.

(2) "City" means any city in this state, and "town" means any town incorporated under IC 36-5-1.

(3) "New manufacturing equipment" means any tangible personal property which:

(A) was installed after February 28, 1983, and before January 1, 2006, in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible personal property is allowed;

(B) is used in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including but not limited to use to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(C) was acquired by its owner for use as described in clause (B) and was never before used by its owner for any purpose in Indiana.

However, notwithstanding any other law, the term includes tangible personal property that is used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products and was installed after March 1, 1993, and before March 2, 1996, even if the property was installed before the area where the property is located was designated as an economic revitalization area or the statement of benefits for the property was approved by the designating body.

(4) "Property" means a building or structure, but does not include land.

(5) "Redevelopment" means the construction of new structures in economic revitalization areas, either:

(A) on unimproved real estate; or

(B) on real estate upon which a prior existing structure is demolished to allow for a new construction.

(6) "Rehabilitation" means the remodeling, repair, or betterment of property in any manner or any enlargement or extension of

property.

(7) "Designating body" means the following:

(A) For a county that does not contain a consolidated city, the fiscal body of the county, city, or town.

(B) For a county containing a consolidated city, the metropolitan development commission.

(8) "Deduction application" means either:

(A) the application filed in accordance with section 5 of this chapter by a property owner who desires to obtain the deduction provided by section 3 of this chapter; or

(B) the application filed in accordance with section 5.5 of this chapter by a person who desires to obtain the deduction provided by section 4.5 of this chapter.

(9) "Designation application" means an application that is filed with a designating body to assist that body in making a determination about whether a particular area should be designated as an economic revitalization area.

(10) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a). The term includes waste determined to be a hazardous waste under IC 13-22-2-3(b).

(11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a). However, the term does not include dead animals or any animal solid or semisolid wastes.

(12) "New research and development equipment" means tangible personal property that:

(A) is installed after June 30, 2000, and before January 1, 2006, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

(i) laboratory equipment;

(ii) research and development equipment;

(iii) computers and computer software;

(iv) telecommunications equipment; or

(v) testing equipment;

(C) is used in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products; and

(D) is acquired by the property owner for purposes described in this subdivision and was never before used by the owner for any purpose in Indiana.

The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy, history, or similar projects.

(13) "New logistical distribution equipment" means tangible personal property that:

(A) is installed after June 30, 2004, and before January 1, 2006, in an economic revitalization area:

(i) in which a deduction for tangible personal property is allowed; and

(ii) located in a county referred to in section 2.3 of this chapter, subject to section 2.3(c) of this chapter.

(B) consists of:

(i) racking equipment;

(ii) scanning or coding equipment;

(iii) separators;

(iv) conveyors;

(v) fork lifts or lifting equipment (including "walk behinds");

(vi) transitional moving equipment;

(vii) packaging equipment;

(viii) sorting and picking equipment; or

(ix) software for technology used in logistical distribution;

(C) is used for the storage or distribution of goods, services, or information; and

(D) before being used as described in clause (C), was never used by its owner for any purpose in Indiana.

(14) "New information technology equipment" means tangible personal property that:

(A) is installed after June 30, 2004, and before January 1, 2006, in an economic revitalization area:

(i) in which a deduction for tangible personal property is allowed; and

(ii) located in a county referred to in section 2.3 of this

chapter, subject to section 2.3(c) of this chapter.

(B) consists of equipment, including software, used in the fields of:

- (i) information processing;**
- (ii) office automation;**
- (iii) telecommunication facilities and networks;**
- (iv) informatics;**
- (v) network administration;**
- (vi) software development; and**
- (vii) fiber optics; and**

(C) before being installed as described in clause (A), was never used by its owner for any purpose in Indiana.

SECTION 49. IC 6-1.1-12.1-2, AS AMENDED BY P.L.4-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area. However, the deduction provided by this chapter for economic revitalization areas not within a city or town shall not be available to retail businesses.

(b) In a county containing a consolidated city or within a city or town, a designating body may find that a particular area within its jurisdiction is a residentially distressed area. Designation of an area as a residentially distressed area has the same effect as designating an area as an economic revitalization area, except that the amount of the deduction shall be calculated as specified in section 4.1 of this chapter and the deduction is allowed for not more than five (5) years. In order to declare a particular area a residentially distressed area, the designating body must follow the same procedure that is required to designate an area as an economic revitalization area and must make all the following additional findings or all the additional findings described in subsection (c):

(1) The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings or multifamily dwellings designed for up to four (4) families, including accessory buildings for those dwellings.

(2) Any dwellings in the area are not permanently occupied and are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) Parcels of property in the area:

(A) have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or

(B) are owned by a unit of local government.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection or one (1) of the additional findings described in subsection (c).

(c) In a county containing a consolidated city or within a city or town, a designating body that wishes to designate a particular area a residentially distressed area may make the following additional findings as an alternative to the additional findings described in subsection (b):

(1) A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land.

(2) A significant number of dwelling units within the area are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States.

(4) The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection as an alternative to one (1) of the additional findings described in subsection (b).

(d) A designating body is required to attach the following conditions to the grant of a residentially distressed area designation:

(1) The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.

(2) If a designation application is filed, the designating body may

require that the redevelopment or rehabilitation be completed within a reasonable period of time.

(e) To make a designation described in subsection (a) or (b), the designating body shall use procedures prescribed in section 2.5 of this chapter.

(f) The property tax deductions provided by sections 3 and 4.5 of this chapter are only available within an area which the designating body finds to be an economic revitalization area.

(g) The designating body may adopt a resolution establishing general standards to be used, along with the requirements set forth in the definition of economic revitalization area, by the designating body in finding an area to be an economic revitalization area. The standards must have a reasonable relationship to the development objectives of the area in which the designating body has jurisdiction. The following three (3) sets of standards may be established:

(1) One (1) relative to the deduction under section 3 of this chapter for economic revitalization areas that are not residentially distressed areas.

(2) One (1) relative to the deduction under section 3 of this chapter for residentially distressed areas.

(3) One (1) relative to the deduction allowed under section 4.5 of this chapter.

(h) A designating body may impose a fee for filing a designation application for a person requesting the designation of a particular area as an economic revitalization area. The fee may be sufficient to defray actual processing and administrative costs. However, the fee charged for filing a designation application for a parcel that contains one (1) or more owner-occupied, single-family dwellings may not exceed the cost of publishing the required notice.

(i) In declaring an area an economic revitalization area, the designating body may:

(1) limit the time period to a certain number of calendar years during which the area shall be so designated;

(2) limit the type of deductions that will be allowed within the economic revitalization area to either the deduction allowed under section 3 of this chapter or the deduction allowed under section 4.5 of this chapter;

(3) limit the dollar amount of the deduction that will be allowed

with respect to new manufacturing equipment, ~~and~~ new research and development equipment, **new logistical distribution equipment, and new information technology equipment** if a deduction under this chapter had not been filed before July 1, 1987, for that equipment;

(4) limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as economic revitalization areas on or after September 1, 1988; or

(5) impose reasonable conditions related to the purpose of this chapter or to the general standards adopted under subsection (g) for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~: **new logistical distribution equipment, or new information technology equipment.**

To exercise one (1) or more of these powers a designating body must include this fact in the resolution passed under section 2.5 of this chapter.

(j) Notwithstanding any other provision of this chapter, if a designating body limits the time period during which an area is an economic revitalization area, that limitation does not:

(1) prevent a taxpayer from obtaining a deduction for new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~, **new logistical distribution equipment, or new information technology equipment** installed before January 1, 2006, but after the expiration of the economic revitalization area if:

(A) the economic revitalization area designation expires after December 30, 1995; and

(B) the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~, **new logistical distribution equipment, or new information technology equipment** was described in a statement of benefits submitted to and approved by the designating body in accordance with section 4.5 of this chapter before the expiration of the economic revitalization area designation; or

(2) limit the length of time a taxpayer is entitled to receive a

deduction to a number of years that is less than the number of years designated under section 4 or 4.5 of this chapter.

(k) Notwithstanding any other provision of this chapter, deductions:

(1) that are authorized under section 3 of this chapter for property in an area designated as an urban development area before March 1, 1983, and that are based on an increase in assessed valuation resulting from redevelopment or rehabilitation that occurs before March 1, 1983; or

(2) that are authorized under section 4.5 of this chapter for new manufacturing equipment installed in an area designated as an urban development area before March 1, 1983;

apply according to the provisions of this chapter as they existed at the time that an application for the deduction was first made. No deduction that is based on the location of property or new manufacturing equipment in an urban development area is authorized under this chapter after February 28, 1983, unless the initial increase in assessed value resulting from the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment occurred before March 1, 1983.

(l) If property located in an economic revitalization area is also located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), an application for the property tax deduction provided by this chapter may not be approved unless the commission that designated the allocation area adopts a resolution approving the application.

SECTION 50. IC 6-1.1-12.1-2.3 IS ADDED AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.3. (a) This section applies only to:

(1) a county in which mile markers fourteen (14) through one hundred twenty (120) of Interstate Highway 69 are located as of March 1, 2004; and

(2) a city or town located in a county referred to in subdivision (1).

(b) A designating body may adopt a resolution under section 2.5 of this chapter to authorize a deduction for new logistical distribution equipment or new information technology equipment.

(c) If any amendment to this chapter that takes effect July 1, 2004, applies a deduction under this chapter for new logistical

distribution equipment or new information technology equipment to a broader geographic area than the deduction that would apply under a resolution adopted under this section, the more broadly applied deduction controls with respect to the application of the deduction for new logistical distribution equipment or new information technology equipment.

SECTION 51. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.1-2003, SECTION 22, AND AS AMENDED BY P.L.245-2003, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, **new logistical distribution equipment, or new information technology equipment;**

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology**

equipment and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment, ~~or new research and development equipment, or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment, ~~or new research and development equipment, or both,~~ **new logistical distribution equipment, or new information technology equipment** is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, **new logistical distribution equipment, or new information technology equipment;**

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment, ~~or new research and development equipment, or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(3) Whether the estimate of the annual salaries of those

individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment, ~~or new research and development equipment, or both:~~ **new logistical distribution equipment, or new information technology equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment, ~~or new research and development equipment, or both:~~ **new logistical distribution equipment, or new information technology equipment.**

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), an owner of new manufacturing equipment, ~~or new research and development equipment, or both:~~ **new logistical distribution equipment, or new information technology equipment** whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:

(1) the assessed value of the new manufacturing equipment, ~~or new research and development equipment, or both:~~ **new logistical distribution equipment, or new information technology equipment** in the year of deduction under the appropriate table set forth in subsection (e); multiplied by

(2) the percentage prescribed in the *appropriate* table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%

3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

(1) the deduction under this section as in effect on March 1, 2001; and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

- (1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or
- (2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

SECTION 52. IC 6-1.1-12.1-5.4, AS AMENDED BY P.L.245-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.4. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction application on forms prescribed by the department of local government finance with the auditor of the county in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~, **new logistical distribution equipment, or new information technology equipment** is located. A person that timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~, **new logistical distribution equipment, or new information technology equipment** is installed must file the application between March 1 and May 15 of that year. A person that obtains a filing extension under IC 6-1.1-3-7(b) for the year in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~, **new logistical distribution equipment, or new information technology equipment** is installed must file the application between March 1 and the extended due date for that year.

(b) The deduction application required by this section must contain the following information:

- (1) The name of the owner of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~: **new**

logistical distribution equipment, or new information technology equipment.

(2) A description of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment.**

(3) Proof of the date the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** was installed.

(4) The amount of the deduction claimed for the first year of the deduction.

(c) This subsection applies to a deduction application with respect to new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body, and the designating body shall adopt a resolution under section 4.5(g)(2) of this chapter.

(d) A deduction application must be filed under this section in the year in which the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** is installed and in each of the immediately succeeding years the deduction is allowed.

(e) Subject to subsection (i), the county auditor shall:

(1) review the deduction application; and

(2) approve, deny, or alter the amount of the deduction.

Upon approval of the deduction application or alteration of the amount of the deduction, the county auditor shall make the deduction. The county auditor shall notify the county property tax assessment board of appeals of all deductions approved under this section.

(f) If the ownership of new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment**

changes, the deduction provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

- (1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and
- (2) files the deduction applications required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) A person may appeal the determination of the county auditor under subsection (e) by filing a complaint in the office of the clerk of the circuit or superior court not more than forty-five (45) days after the county auditor gives the person notice of the determination.

(i) Before the county auditor acts under subsection (e), the county auditor may request that the township assessor in which the property is located review the deduction application.

SECTION 53. IC 6-1.1-12.1-5.6, AS AMENDED BY P.L.4-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.6. (a) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter before July 1, 1991. In addition to the requirements of section 5.5(b) of this chapter, a deduction application filed under section 5.5 of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction application.

(b) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter after June 30, 1991. In addition to the requirements of section 5.5(b) of this chapter, a property owner who files a deduction application under section 5.5 of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter.

(c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following information is a public record if filed under this section:

- (1) The name and address of the taxpayer.

(2) The location and description of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** for which the deduction was granted.

(3) Any information concerning the number of employees at the facility where the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** is located, including estimated totals that were provided as part of the statement of benefits.

(4) Any information concerning the total of the salaries paid to those employees, including estimated totals that were provided as part of the statement of benefits.

(5) Any information concerning the amount of solid waste or hazardous waste converted into energy or other useful products by the new manufacturing equipment.

(6) Any information concerning the assessed value of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment** including estimates that were provided as part of the statement of benefits.

(d) The following information is confidential if filed under this section:

(1) Any information concerning the specific salaries paid to individual employees by the owner of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment.**

(2) Any information concerning the cost of the new manufacturing equipment, ~~or new research and development equipment, or both;~~ **new logistical distribution equipment, or new information technology equipment.**

SECTION 54. IC 6-1.1-12.1-5.8, AS AMENDED BY P.L.256-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.8. In lieu of providing the statement of benefits required by section 3 or 4.5 of this chapter and the additional information required by section 5.1 or 5.6 of this chapter, the designating body may, by resolution, waive the statement of benefits if

the designating body finds that the purposes of this chapter are served by allowing the deduction and the property owner has, during the thirty-six (36) months preceding the first assessment date to which the waiver would apply, installed new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~, **new logistical distribution equipment, or new information technology equipment** or developed or rehabilitated property at a cost of at least ten million dollars (\$10,000,000) as determined by the assessor of the township in which the property is located.

SECTION 55. IC 6-1.1-12.1-8, AS AMENDED BY P.L.90-2002, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) Not later than December 31 of each year, the county auditor shall publish the following in a newspaper of general interest and readership and not one of limited subject matter:

(1) A list of the approved deduction applications that were filed under this chapter during that year. The list must contain the following:

(A) The name and address of each person approved for or receiving a deduction that was filed for during the year.

(B) The amount of each deduction that was filed for during the year.

(C) The number of years for which each deduction that was filed for during the year will be available.

(D) The total amount for all deductions that were filed for and granted during the year.

(2) The total amount of all deductions for real property that were in effect under section 3 of this chapter during the year.

(3) The total amount of all deductions for new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both~~, **new logistical distribution equipment, or new information technology equipment** that were in effect under section 4.5 of this chapter during the year.

(b) The county auditor shall file the information described in subsection (a)(2) and (a)(3) with the department of local government finance not later than December 31 of each year.

SECTION 56. IC 6-1.1-12.1-11.3, AS AMENDED BY P.L.245-2003, SECTION 11, IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11.3. (a) This section applies only to the following requirements:

(1) Failure to provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter.

(2) Failure to submit the completed statement of benefits form to the designating body before the initiation of the redevelopment or rehabilitation or the installation of new manufacturing equipment, ~~or new research and development equipment, or both,~~ **new logistical distribution equipment, or new information technology equipment** for which the person desires to claim a deduction under this chapter.

(3) Failure to designate an area as an economic revitalization area before the initiation of the:

(A) redevelopment;

(B) installation of new manufacturing equipment, ~~or new research and development equipment, or both,~~ **new logistical distribution equipment, or new information technology equipment;** or

(C) rehabilitation;

for which the person desires to claim a deduction under this chapter.

(4) Failure to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction for new manufacturing equipment, ~~or new research and development equipment, or both,~~ **new logistical distribution equipment, or new information technology equipment** under section 2, 3, or 4.5 of this chapter.

(5) Failure to file a:

(A) timely; or

(B) complete;

deduction application under section 5 or 5.4 of this chapter.

(b) This section does not grant a designating body the authority to exempt a person from filing a statement of benefits or exempt a designating body from making findings of fact.

(c) A designating body may by resolution waive noncompliance described under subsection (a) under the terms and conditions specified in the resolution. Before adopting a waiver under this subsection, the

designating body shall conduct a public hearing on the waiver.

SECTION 57. IC 6-1.1-12.1-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 14. (a) This section does not apply to:**

- (1) a deduction under section 3 of this chapter for property located in a residentially distressed area; or**
- (2) any other deduction under section 3 or 4.5 of this chapter for which a statement of benefits was approved before July 1, 2004.**

(b) A property owner that receives a deduction under section 3 or 4.5 of this chapter is subject to this section only if the designating body, with the consent of the property owner, incorporates this section, including the percentage to be applied by the county auditor for purposes of STEP TWO of subsection (c), into its initial approval of the property owner's statement of benefits and deduction at the time of that approval.

(c) During each year in which a property owner's property tax liability is reduced by a deduction granted under this chapter, the property owner shall pay to the county treasurer a fee in an amount determined by the county auditor. The county auditor shall determine the amount of the fee to be paid by the property owner according to the following formula:

STEP ONE: Determine the additional amount of property taxes that would have been paid by the property owner during the year if the deduction had not been in effect.

STEP TWO: Multiply the amount determined under STEP ONE by the percentage determined by the designating body under subsection (b), which may not exceed fifteen percent (15%). The percentage determined by the designating body remains in effect throughout the term of the deduction and may not be changed.

STEP THREE: Determine the lesser of the STEP TWO product or one hundred thousand dollars (\$100,000).

(d) Fees collected under this section must be distributed to one (1) or more public or nonprofit entities established to promote economic development within the corporate limits of the city, town, or county served by the designating body. The designating body shall notify the county auditor of the entities that are to receive

distributions under this section and the relative proportions of those distributions. The county auditor shall distribute fees collected under this section in accordance with the designating body's instructions.

(e) If the designating body determines that a property owner has not paid a fee imposed under this section, the designating body may adopt a resolution terminating the property owner's deduction under section 3 or 4.5 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

SECTION 58. IC 6-1.1-4-40 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004 (RETROACTIVE)]: **Sec. 40. The value of federal income tax credits awarded under Section 42 of the Internal Revenue Code may not be considered in determining the assessed value of low income housing tax credit property.**

SECTION 59. THE FOLLOWING ARE REPEALED [EFFECTIVE APRIL 1, 2004]: IC 6-2.5-4-4.5; IC 6-2.5-6-15.

SECTION 60. IC 6-2.5-5-15 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 61. IC 9-18-9-4 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 62. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] (a) **IC 6-2.5-3-5, as amended by this act, applies only to vehicles, watercraft, and aircraft that are initially titled, registered, or licensed in Indiana after June 30, 2004.**

(b) **IC 6-2.5-4-11, as amended by this act, applies only to transactions occurring after March 1, 2004. A retail transaction to which IC 6-2.5-4-11, as amended by this act, applies shall be considered as having occurred after March 1, 2004, if charges are collected for the retail transactions upon original statements and billings dated after March 31, 2004.**

(c) **IC 6-2.5-8-10, as amended by this act, and the repeal of IC 6-2.5-5-15 by this act apply only to retail transactions occurring after June 30, 2004. A retail transaction shall be considered as having occurred after June 30, 2004, to the extent that delivery of the property or services constituting selling at retail is made after**

that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before July 1, 2004, to the extent that the agreement of the parties to the transaction was entered into before July 1, 2004, and payment for the property or services furnished in the transaction is made before July 1, 2004, notwithstanding the delivery of the property or services after June 30, 2004.

(d) IC 6-2.5-6-9, as amended by this act, applies only to deductions assigned after June 30, 2004.

(e) IC 6-3-1-3.5, IC 6-3-2-2.5, and IC 6-3-2-2.6, all as amended by this act, apply only to taxable years beginning after December 31, 2003.

(f) The following provisions apply to deductions for net operating losses that are claimed after December 31, 2003:

(1) Deductions for net operating losses that are incurred in taxable years beginning after December 31, 2003, and are carried back or carried forward and deducted in taxable years ending before January 1, 2004, must be calculated under IC 6-3-2-2.5 and IC 6-3-2-2.6, both as amended by this act.

(2) Deductions for net operating losses that were incurred in taxable years ending before January 1, 2004, and that are carried forward and deducted in taxable years ending after December 31, 2003, must be calculated under IC 6-3-2-2.5 and IC 6-3-2-2.6, both as amended by this act.

(3) Deductions for net operating losses that were incurred in taxable years ending before January 1, 2004, and are carried back or carried forward and deducted in taxable years ending before January 1, 2004, must be calculated under the versions of IC 6-3-2-2.5 and IC 6-3-2-2.6 that were in effect in the year the net operating loss was incurred.

(4) Any net operating loss carried forward and deducted in a taxable year beginning after December 31, 2003, shall be reduced by the amount of the net operating loss previously deducted in an earlier taxable year.

(g) IC 6-4.1-1-3, as amended by this act, applies only to an adopting parent who dies after June 30, 2004.

SECTION 63. [EFFECTIVE UPON PASSAGE] (a) An individual who:

(1) was employed by Muscatatuck State Developmental Center on November 1, 2002;

(2) retired under the state's retirement incentive program that was effective beginning November 1, 2002, and ending June 14, 2003;

(3) would meet the years of service requirements specified in IC 5-10-8-8(b)(3) and the years of participation requirement specified in IC 5-10-8-8(b)(4) if:

(A) one (1) year of additional service credit is added to the individual's total years of service for every five (5) years of creditable state service; and

(B) pro rated months of additional service credit are added to the individual's total years of service for any additional years of creditable state service;

(4) otherwise meets the requirements of IC 5-10-8-8(b); and

(5) applies for participation in the group health insurance program under IC 5-10-8-8 before December 31, 2005;

is eligible for participation in the group health insurance program available to retired employees under IC 5-10-8-8.

(b) This SECTION expires December 31, 2006.

SECTION 64. [EFFECTIVE JULY 1, 2004] (a) As used in this SECTION, "committee" refers to the interim study committee on corporate taxation established under subsection (b).

(b) There is established the interim study committee on corporate taxation. The committee shall study the use of passive investment corporations by companies doing business in Indiana.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(e) This SECTION expires November 1, 2004.

SECTION 65. An emergency is declared for this act.

P.L.82-2004

[H.1394. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-30-5-3, AS AMENDED BY P.L.291-2001, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. A person who violates section 1 or 2 of this chapter commits a Class D felony if:

(1) the person has a previous conviction of operating while intoxicated ~~and~~

~~(2) the previous conviction of operating while intoxicated that occurred within the five (5) years immediately preceding the occurrence of the violation of section 1 or 2 of this chapter; or~~

(2) the person:

(A) is at least twenty-one (21) years of age;

(B) violates section 1(b) or 2(b) of this chapter; and

(C) operated a vehicle in which at least one (1) passenger was less than eighteen (18) years of age.

SECTION 2. IC 9-30-5-5, AS AMENDED BY P.L.175-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol **but less than fifteen-hundredths (0.15) gram of alcohol** per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's ~~body~~; **blood**; or

(3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this chapter, **or if the**

person knowingly operated the motor vehicle with a driver's license that was suspended or revoked for a previous conviction for operating a vehicle while intoxicated under IC 9-30-5.

(b) A person at least twenty-one (21) years of age who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath; or

(2) with a controlled substance listed in schedule I or II of IC 35-48-4 or its metabolite in the person's blood;

commits a Class B felony.

(c) A person who violates subsection (a) or (b) commits a separate offense for each person whose death is caused by the violation of subsection (a) or (b).

(~~c~~) (d) It is a defense under subsection (a)(2) or subsection (b)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 3. IC 9-30-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If it appears from the records maintained in the bureau that a person's driving record makes the person a habitual violator under section 4 of this chapter, the bureau shall mail a notice to the person's last known address that informs the person that the person's driving privileges will be suspended in thirty (30) days because the person is a habitual violator according to the records of the bureau.

(b) Thirty (30) days after the bureau has mailed a notice under this section, the bureau shall suspend the person's driving privileges for:

(1) **except as provided in subdivision (2),** ten (10) years if the person is a habitual violator under section 4(a) of this chapter;

(2) **life if the person is a habitual violator under section 4(a) of this chapter and has at least two (2) violations under section 4(a)(4) through 4(a)(7) of this chapter;**

(3) ten (10) years if the person is a habitual violator under section 4(b) of this chapter; or

(~~3~~) (4) five (5) years if the person is a habitual violator under section 4(c) of this chapter.

(c) The notice must inform the person that the person may be entitled to relief under section 6 of this chapter or may seek judicial review of the person's suspension under this chapter.

SECTION 4. [EFFECTIVE JULY 1, 2004] IC 9-30-5-5, as amended by this act, applies only to offenses committed after June 30, 2004.

P.L.83-2004

[H.1435. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-22-3-4.1, AS AMENDED BY P.L.170-2002, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.1. (a) This section applies only to the board of an airport authority established for a county having a consolidated city.

(b) The board consists of members appointed as follows:

(1) The mayor of the consolidated city shall appoint ~~five (5)~~ **six (6)** members. Each member appointed under this subdivision must be a resident of the county having the consolidated city.

(2) The board of commissioners of the county having the consolidated city shall appoint one (1) member. The member appointed under this subdivision must be a resident of the county having the consolidated city.

(3) The county executive of each Indiana county that fulfills all of the following requirements shall each appoint one (1) member:

(A) The county is adjacent to the county having the consolidated city.

(B) The county has a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000).

(C) The authority owns real property in the county.

The county executive of a county represented on the board under

this subdivision may not appoint an advisory member under section 4(e) of this chapter.

Not more than ~~three (3)~~ **four (4)** members appointed under subdivisions (1) and (2) may be members of the same political party.

(c) At least one (1) member of the board appointed under subsection (b)(1) must also be a resident of a township that:

- (1) is located in the county having the consolidated city; and
- (2) has a population of:
 - (A) less than twenty-five thousand (25,000); or
 - (B) more than one hundred thirty-three thousand (133,000) but less than one hundred fifty thousand (150,000).

(d) A member of the board appointed under subsection (b)(3) must be a resident of a township:

- (1) located in the county making the appointment; and
- (2) having a population of more than twenty thousand (20,000) but less than twenty-five thousand (25,000).

(e) The county executive of a county that is not otherwise represented on the board and that is located not more than one thousand two hundred (1,200) feet from a certified air carrier airport that is owned or operated by the authority may appoint one (1) advisory member to the board. An advisory member appointed under this subsection:

- (1) must be a resident of:**
 - (A) the county making the appointment; and**
 - (B) one (1) of the two (2) townships in the county located nearest to the airport;**
- (2) may not vote on any matter before the board;**
- (3) serves at the pleasure of the appointing authority; and**
- (4) serves without compensation or payment for expenses.**

~~(f)~~ **(f)** A member of the board holds office for four (4) years and until the member's successor is appointed and qualified.

~~(g)~~ **(g)** If a vacancy occurs in the board, the authority that appointed the member that vacated the board shall appoint an individual to serve for the remainder of the unexpired term.

~~(g)~~ **(h)** A board member may be reappointed to successive terms.

~~(h)~~ **(i)** A board member may be impeached under the procedure provided for the impeachment of county officers.

~~(i)~~ **(j)** A board member appointed under subsection (b)(3) may not

vote on a matter before the board relating to imposing, increasing, or decreasing property taxes in the county having the consolidated city.

SECTION 2. [EFFECTIVE JULY 1, 2004] (a) This SECTION applies only to the board of an airport authority established for a county having a consolidated city.

(b) Before January 1, 2005, the mayor of the consolidated city shall appoint one (1) additional member of the board as required by IC 8-22-3-4.1(b)(1), as amended by this act.

(c) An individual appointed under subsection (b) takes office January 1, 2005.

(d) This SECTION expires January 1, 2006.

SECTION 3. [EFFECTIVE JULY 1, 2004] The general assembly finds that development of the certified air carrier airport, owned and operated by the Indianapolis Airport Authority, may impact persons residing outside of Marion County, but within close proximity to the airport. In order to address the concerns of these persons, the general assembly finds that it is appropriate to appoint to the board of the Indianapolis Airport Authority (described in IC 8-22-3-4.1, as amended by this act) a member from a county, described in IC 8-22-3-4.1(e), as amended by this act, that is located in close proximity to a certified air carrier airport described in this SECTION.

SECTION 4. [EFFECTIVE JULY 1, 2004] (a) This SECTION applies only to the board of an airport authority established for a county having a consolidated city.

(b) Before January 1, 2005, the county executive of each county described in IC 8-22-3-4.1(e), as added by this act, may appoint an advisory member of the board as provided by IC 8-22-3-4.1(e), as added by this act.

(c) An individual appointed under subsection (b) takes office January 1, 2005.

(d) This SECTION expires January 1, 2006.

P.L.84-2004

[H.1436. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-13-16.5-1, AS AMENDED BY P.L.195-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. As used in this chapter:

"Commission" refers to the governor's commission on minority and women's business enterprises established under section 2 of this chapter.

"Commissioner" refers to the deputy commissioner for minority and women's business enterprises of the department.

"Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services.

"Department" refers to the Indiana department of administration established by IC 4-13-1-2.

"Minority business enterprise" or "minority business" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

- (1) United States citizens; and
- (2) members of a minority group.

"Owned and controlled" means having:

- (1) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;
- (2) control over the management and active in the day-to-day operations of the business; and
- (3) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

"Minority group" means:

- (1) Blacks;

- (2) American Indians;
- (3) Hispanics;
- (4) Asian Americans; and
- (5) other similar minority groups, as defined by 13 CFR 124.103.

"Separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and politic.

"State agency" refers to any of the following:

- (1) ~~An~~ authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative, department of state government.
- (2) ~~An entity established by the general assembly as a body corporate and politic.~~

~~(3) A "State educational institution" has the meaning set forth in IC 20-12-0.5-1.~~

~~The term does not include the state lottery commission or the Indiana gaming commission with respect to setting and enforcing goals for awarding contracts to minority and women's business enterprises.~~

SECTION 2. IC 4-13-16.5-2, AS AMENDED BY P.L.41-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) There is established a governor's commission on minority and women's business enterprises. The commission shall consist of the following members:

- (1) A governor's designee, who shall serve as chairman of the commission.
- (2) The commissioner of the Indiana department of transportation.
- (3) The director of the department of commerce.
- (4) The commissioner of the department.
- (5) Nine (9) individuals with demonstrated capabilities in business and industry, especially minority and women's business enterprises, appointed by the governor from the following geographical areas of the state:
 - (A) Three (3) from the northern one-third (1/3) of the state.
 - (B) Three (3) from the central one-third (1/3) of the state.
 - (C) Three (3) from the southern one-third (1/3) of the state.
- (6) Two (2) members of the house of representatives, no more than one (1) from the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting

advisory capacity.

(7) Two (2) members of the senate, no more than one (1) from the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting advisory capacity.

Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission shall serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

(b) Each member of the commission who is not a state employee is entitled to the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided under IC 4-13-1-4 and in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances established by the legislative council and paid to members of the general assembly serving on interim study committees. The allowances specified in this subsection shall be paid by the legislative services agency from the amounts appropriated for that purpose.

(d) A member of the commission who is a state employee but who is not a member of the general assembly is not entitled to any of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year and at other times as the chairman deems necessary.

(f) The duties of the commission shall include but not be limited to the following:

(1) Identify minority and women's business enterprises in the state.

- (2) Assess the needs of minority and women's business enterprises.
- (3) Initiate aggressive programs to assist minority and women's business enterprises in obtaining state contracts.
- (4) Give special publicity to procurement, bidding, and qualifying procedures.
- (5) Include minority and women's business enterprises on solicitation mailing lists.
- (6) Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies, **separate bodies corporate and politic, and state educational institutions** with state and federal legislation and policy concerning the awarding of contracts to minority and women's business enterprises.
- (7) Establish annual goals:
 - (A) for the use of minority and women's business enterprises; and
 - (B) derived from a statistical analysis of utilization study of state contracts that are required to be updated every five (5) years.
- (8) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.
- (g) The department shall adopt rules of ethics under IC 4-22-2 for commission members other than commission members appointed under subsection (a)(6) or (a)(7).
- (h) The department shall furnish administrative support and staff as is necessary for the effective operation of the commission.

SECTION 3. IC 4-13-16.5-3, AS AMENDED BY P.L.195-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) There is created in the department a deputy commissioner for minority and women's business enterprise development. Upon consultation with the commission, the commissioner of the department, with the approval of the governor, shall appoint an individual who possesses demonstrated capability in business or industry, especially in minority or women's business enterprises, to serve as deputy commissioner to work with the

commission in the implementation of this chapter.

(b) The deputy commissioner shall do the following:

- (1) Identify and certify minority and women's business enterprises for state projects.
- (2) Establish a central certification file.
- (3) Periodically update the certification status of each minority or women's business enterprise.
- (4) Monitor the progress in achieving the goals established under section 2(f)(7) of this chapter.
- (5) Require **all** state agencies, **separate bodies corporate and politic, and state educational institutions** to report on planned and actual participation of minority and women's business enterprises in contracts awarded by state agencies. The commissioner may exclude from the reports uncertified minority and women's business enterprises.
- (6) Determine and define opportunities for minority and women's business participation in contracts awarded by **all** state agencies, **separate bodies corporate and politic, and state educational institutions**.
- (7) Implement programs initiated by the commission under section 2 of this chapter.
- (8) Perform other duties as defined by the commission or by the commissioner of the department.

SECTION 4. IC 4-13-16.5-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6. (a) Notwithstanding any other law, the standards developed under this chapter apply to the determination and certification of a business as a minority business enterprise or a women's business enterprise under any Indiana law.**

(b) Notwithstanding any other law, a certification of a business as a minority business enterprise or a women's business enterprise under this chapter satisfies any Indiana law providing for or requiring the certification of a business as a minority business enterprise or a women's business enterprise.

SECTION 5. IC 4-13-16.5-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 7. For purposes of IC 5-14-3, materials containing:**

- (1) personal financial information; or**

**(2) confidential business information;
submitted by an applicant for certification as a minority business enterprise or a women's business enterprise are confidential.**

SECTION 6. IC 4-33-14-5, AS AMENDED BY P.L.92-2003, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) As used in this section, "goods and services" does not include the following:

- (1) Utilities and taxes.
- (2) Financing costs, mortgages, loans, or other debt.
- (3) Medical insurance.
- (4) Fees and payments to a parent or an affiliated company of an operating agent or the person holding an owner's license, other than fees and payments for goods and services supplied by nonaffiliated persons through an affiliated company for the use or benefit of the operating agent or the person holding the owner's license.
- (5) Rents paid for real property or payments constituting the price of an interest in real property as a result of a real estate transaction.

(b) Notwithstanding any law or rule to the contrary, the commission shall establish annual goals for an operating agent or a person issued an owner's license:

- (1) for the use of minority and women's business enterprises; and
- (2) derived from a statistical analysis of utilization study of licensee and operating agent contracts for goods and services that are required to be updated every five (5) years.

(c) An operating agent or a person holding an owner's license shall submit annually to the commission a report that includes the **following information:**

- (1) **The** total dollar value of contracts awarded for goods or services and the percentage awarded to minority and women's business enterprises.
- (2) **The following information relating to each minority business enterprise or women's business enterprise awarded a contract for goods or services:**
 - (A) **The name.**
 - (B) **The address.**
 - (C) **The total dollar amount of the contract.**

A record containing information described in this subsection is not exempt from the disclosure requirements of IC 5-14-3-3 under IC 5-14-3-4.

(c) (d) An operating agent or a person holding an owner's license shall make a good faith effort to meet the requirements of this section and shall annually demonstrate to the commission that an effort was made to meet the requirements.

(d) (e) An operating agent or a person holding an owner's license may fulfill not more than seventy percent (70%) of an obligation under this chapter by requiring a vendor to set aside a part of a contract for minority or women's business enterprises. Upon request, the licensee or operating agent shall provide the commission with proof of the amount of the set aside.

SECTION 7. IC 4-33-14-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. The commission shall ~~establish and administer a unified certification procedure~~ **use the certifications made under IC 4-13-16.5** for minority and women's business enterprises that do business with riverboat operations on contracts for goods and services or contracts for business.

SECTION 8. IC 4-33-14-8, AS AMENDED BY P.L.92-2003, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The commission shall supply persons holding owner's licenses and the operating agent with a list of the **certified** minority and women's business enterprises. ~~the commission has certified under section 7 of this chapter. The commission shall review the list annually to determine the minority and women's business enterprises that should continue to be certified. The commission shall establish a procedure for challenging the designation of a certified minority and women's business enterprise. The procedure must include proper notice and a hearing for all parties concerned.~~

SECTION 9. [EFFECTIVE JULY 1, 2004] (a) **The definitions in IC 4-13-16.5, as amended by this act, apply throughout this SECTION.**

(b) **As used in this SECTION, "reporting period" refers to the period:**

- (1) beginning January 1, 1999; and**
- (2) ending December 31, 2003.**

(c) **As used in this SECTION, "small business enterprise" has**

the meaning set forth in 25 IAC 1.5-1-9.

(d) As used in this SECTION, "special business enterprise" refers to any of the following:

- (1) A minority business enterprise.
- (2) A small business enterprise.
- (3) A women's business enterprise.

(e) Each state agency, separate body corporate and politic, and state educational institution shall analyze the use of special business enterprises in the agency's, body's, or institution's purchasing, construction, and contracting practices.

(f) The analysis required by subsection (e) must include the following information, specified for each special business enterprise type described in subsection (d), for each calendar year in the reporting period, and for a state educational institution, for each campus of the state educational institution:

- (1) Number of contracts awarded.
- (2) Total dollar amount of contracts awarded.
- (3) A classification of different contract types awarded by the agency, body, or institution and the number of contracts awarded in each classification.
- (4) A description of efforts made by the agency, body, or institution to encourage each business enterprise type to do business with the agency, body, or institution during the reporting period.

(g) The analysis required by subsection (f) must include the same information required for the reporting period by subsection (f) for businesses that are not special business enterprises.

(h) Each agency, body, and institution shall file a written report in electronic format under IC 5-14-6 of the results of the analysis required by this SECTION with the legislative council not later than November 1, 2004.

(i) This SECTION expires January 1, 2006.

P.L.85-2004

[H.1437. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning corrections and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 11-10-13 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 13. Costs of Incarceration

Sec. 1. The department shall develop a methodology for determining the average daily cost of incarcerating an offender.

Sec. 2. The department shall determine the average daily cost of incarcerating an offender in:

- (1) the department; and**
- (2) each county jail.**

Sec. 3. The department shall provide each court with jurisdiction over felony and misdemeanor cases with a report enumerating the average daily costs of incarcerating an offender.

Sec. 4. (a) The department shall update the report described in section 3 of this chapter twice each calendar year. However, if the average daily cost of incarcerating an offender deviates less than one percent (1%) from the previous cost determination, the department is not required to update the report.

(b) The department shall update the report described in section 3 of this chapter, if necessary, after receiving the semiannual incarceration cost analysis from each county sheriff under IC 36-2-13-5.

Sec. 5. The department may use the semiannual incarceration cost analysis of a county sheriff under IC 36-2-13-5 as the daily cost of incarcerating an offender in that county jail.

Sec. 6. (a) The department shall annually conduct or contract with a third party to annually conduct an actuarially based study of projected costs of incarceration.

(b) The study must:**(1) consider:**

- (A) the present and anticipated future costs of incarcerating the current inmate population;**
- (B) the effect of credit time;**
- (C) the effect of inmate mortality rates;**
- (D) the projected increase in costs of incarceration; and**
- (E) any other factor determined to be relevant by the department or the third party contractor; and**

(2) provide an analysis of the projected costs of incarceration for each subsequent calendar year after the year the study is conducted until each inmate in the current inmate population is no longer serving the executed sentence for which the inmate is incarcerated in the department.

(c) Before July 1 of each year, the department shall provide the legislative council with the results of the study. The department shall provide the results in an electronic format under IC 5-14-6.

Sec. 7. The department may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. IC 11-12-2-3, AS AMENDED BY P.L.224-2003, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) A community corrections advisory board shall:

(1) formulate:

- (A) the community corrections plan and the application for financial aid required by section 4 of this chapter; and**
- (B) the forensic diversion program plan under ~~IC 11-12-3.5-2~~ IC 11-12-3.7;**

(2) observe and coordinate community corrections programs in the county;

(3) make an annual report to the county fiscal body, county executive, or, in a county having a consolidated city, the city-county council, containing an evaluation of the effectiveness of programs receiving financial aid under this chapter and recommendations for improvement, modification, or discontinuance of these programs;

(4) ensure that programs receiving financial aid under this chapter comply with the standards adopted by the department under

section 5 of this chapter; and

(5) recommend to the county executive or, in a county having a consolidated city, to the city-county council, the approval or disapproval of contracts with units of local government or nongovernmental agencies that desire to participate in the community corrections plan.

Before recommending approval of a contract, the advisory board must determine that a program is capable of meeting the standards adopted by the department under section 5 of this chapter.

(b) A community corrections advisory board shall do the following:

(1) Adopt bylaws for the conduct of its own business.

(2) Hold a regular meeting at least one (1) time every three (3) months and at other times as needed to conduct all necessary business. Dates of regular meetings shall be established at the first meeting of each year.

(3) Comply with the public meeting and notice requirements under IC 5-14-1.5.

(c) A community corrections advisory board may contain an office as designated by the county executive or, in a county having a consolidated city, by the city-county council.

(d) Notwithstanding subsection (a)(4), the standards applied to a court alcohol and drug program or a drug court that provides services to a forensic diversion program under IC 11-12-3.7 must be the standards established under IC 12-23-14 or IC 12-23-14.5.

SECTION 3. IC 11-12-3.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 3.7. Forensic Diversion Program

Sec. 1. As used in this chapter, "addictive disorder" means a diagnosable chronic substance use disorder of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

Sec. 2. As used in this chapter, "advisory board" means a:

(1) community corrections advisory board, if there is one in the county; or

(2) forensic diversion program advisory board, if there is not a community corrections advisory board in the county.

Sec. 3. As used in this chapter, "drug dealing offense" means one (1) or more of the following offenses:

- (1) Dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1), unless the person received only minimal consideration as a result of the drug transaction.
- (2) Dealing in a schedule I, II, III, IV, or V controlled substance (IC 35-48-4-2 through IC 35-48-4-4), unless the person received only minimal consideration as a result of the drug transaction.
- (3) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10), unless the person received only minimal consideration as a result of the drug transaction.

Sec. 4. As used in this chapter, "forensic diversion program" means a program designed to provide an adult:

- (1) who has a mental illness or addictive disorder; and
- (2) who has been charged with a crime that is not a violent offense;

an opportunity to receive community treatment and other services addressing mental health and addiction instead of or in addition to incarceration.

Sec. 5. As used in this chapter, "mental illness" means a psychiatric disorder that is of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

Sec. 6. As used in this chapter, "violent offense" means one (1) or more of the following offenses:

- (1) Murder (IC 35-42-1-1).
- (2) Attempted murder (IC 35-41-5-1).
- (3) Voluntary manslaughter (IC 35-42-1-3).
- (4) Involuntary manslaughter (IC 35-42-1-4).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Aggravated battery (IC 35-42-2-1.5).
- (7) Battery (IC 35-42-2-1) as a Class A felony, Class B felony, or Class C felony.
- (8) Kidnapping (IC 35-42-3-2).
- (9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8 that is a Class A felony, Class B felony, or Class C felony.
- (10) Sexual misconduct with a minor (IC 35-42-4-9) as a Class

A felony or Class B felony.

(11) Incest (IC 35-46-1-3).

(12) Robbery as a Class A felony or a Class B felony (IC 35-42-5-1).

(13) Burglary as a Class A felony or a Class B felony (IC 35-43-2-1).

(14) Carjacking (IC 35-42-5-2).

(15) Assisting a criminal as a Class C felony (IC 35-44-3-2).

(16) Escape (IC 35-44-3-5) as a Class B felony or Class C felony.

(17) Trafficking with an inmate as a Class C felony (IC 35-44-3-9).

(18) Causing death when operating a motor vehicle (IC 9-30-5-5).

(19) Criminal confinement (IC 35-42-3-3) as a Class B felony.

(20) Arson (IC 35-43-1-1) as a Class A or Class B felony.

(21) Possession, use, or manufacture of a weapon of mass destruction (IC 35-47-12-1).

(22) Terroristic mischief (IC 35-47-12-3) as a Class B felony.

(23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).

(24) A violation of IC 35-47.5 (Controlled explosives) as a Class A or Class B felony.

(25) A crime under the laws of another jurisdiction, including a military court, that is substantially similar to any of the offenses listed in this subdivision.

(26) Any other crimes evidencing a propensity or history of violence.

Sec. 7. (a) An advisory board shall develop a forensic diversion plan to provide an adult who:

(1) has a mental illness or addictive disorder; and

(2) has been charged with a crime that is not a violent crime; an opportunity, pre-conviction or post-conviction, to receive community treatment and other services addressing mental health and addictions instead of or in addition to incarceration.

(b) The forensic diversion plan may include any combination of the following program components:

(1) Pre-conviction diversion for adults with mental illness.

(2) Pre-conviction diversion for adults with addictive disorders.

(3) Post-conviction diversion for adults with mental illness.

(4) Post-conviction diversion for adults with addictive disorders.

(c) In developing a plan, the advisory board must consider the ability of existing programs and resources within the community, including:

(1) a drug court established under IC 12-23-14.5;

(2) a court alcohol and drug program certified under IC 12-23-14-13;

(3) treatment providers certified by the division of mental health and addiction under IC 12-23-1-6 or IC 12-21-2-3(a)(5); and

(4) other public and private agencies.

(d) Development of a forensic diversion program plan under this chapter or IC 11-12-2-3 does not require implementation of a forensic diversion program.

(e) The advisory board may:

(1) operate the program;

(2) contract with existing public or private agencies to operate one (1) or more components of the program; or

(3) take any combination of actions under subdivisions (1) or (2).

(f) Any treatment services provided under the forensic diversion program:

(1) for addictions must be provided by an entity that is certified by the division of mental health and addiction under IC 12-23-1-6; or

(2) for mental health must be provided by an entity that is:

(A) certified by the division of mental health and addiction under IC 12-21-2-3(a)(5);

(B) accredited by an accrediting body approved by the division of mental health and addiction; or

(C) licensed to provide mental health services under IC 25.

Sec. 8. (a) An individual may request treatment under this chapter or the court may order an evaluation of the individual to determine if the individual is an appropriate candidate for forensic diversion.

(b) A request for treatment or an order for an evaluation under this chapter tolls the running of the speedy trial time period until

the court has made a determination of eligibility for the program under this section.

Sec. 9. (a) A court shall be provided with periodic progress reports on an individual who is ordered by the court to undergo treatment in a forensic diversion program.

(b) A participant may not be released from a forensic diversion program without a court order. The court must consider the recommendation of the forensic diversion program before ordering a participant's release.

Sec. 10. (a) A county that does not have a community corrections advisory board may form a forensic diversion advisory board.

(b) A forensic diversion advisory board formed under subsection (a) shall consist of the following:

- (1)** A judge exercising criminal jurisdiction in the county.
- (2)** The head of the county public defender office, if there is one in the county, or a criminal defense attorney who practices in the county if there is not a county public defender office in the county.
- (3)** The chief probation officer.
- (4)** The prosecuting attorney.
- (5)** The drug court judge or the designee of the drug court judge if there is a certified drug court in the county.
- (6)** The supervising judge of the court alcohol and drug services program or the designee of the supervising judge, if there is a certified court alcohol and drug services program in the county.
- (7)** An individual who is certified or licensed as a substance abuse professional.
- (8)** An individual who is certified or licensed as a mental health professional.
- (9)** An individual with expertise in substance abuse or mental health treatment.

Sec. 11. (a) A person is eligible to participate in a pre-conviction forensic diversion program only if the person meets the following criteria:

- (1)** The person has a mental illness or an addictive disorder.
- (2)** The person has been charged with an offense that is:
 - (A)** not a violent offense; and

(B) a Class A, B, or C misdemeanor, or a Class D felony that may be reduced to a Class A misdemeanor in accordance with IC 35-50-2-7.

(3) The person does not have a conviction for a violent offense in the previous ten (10) years.

(b) Before an eligible person is permitted to participate in a pre-conviction forensic diversion program, the court shall advise the person of the following:

(1) Before the individual is permitted to participate in the program, the individual will be required to enter a guilty plea to the offense with which the individual has been charged.

(2) The court will stay entry of the judgment of conviction during the time in which the individual is successfully participating in the program. If the individual stops successfully participating in the program, or does not successfully complete the program, the court will lift its stay, enter a judgment of conviction, and sentence the individual accordingly.

(3) If the individual participates in the program, the individual may be required to remain in the program for a period not to exceed three (3) years.

(4) During treatment the individual may be confined in an institution, be released for treatment in the community, receive supervised aftercare in the community, or may be required to receive a combination of these alternatives.

(5) If the individual successfully completes the forensic diversion program, the court will waive entry of the judgment of conviction and dismiss the charges.

(6) The court shall determine, after considering a report from the forensic diversion program, whether the individual is successfully participating in or has successfully completed the program.

(c) Before an eligible person may participate in a pre-conviction forensic diversion program, the person must plead guilty to the offense with which the person is charged.

(d) Before an eligible person may be admitted to a facility under the control of the division of mental health and addiction, the individual must be committed to the facility under IC 12-26.

(e) After the person has pleaded guilty, the court shall stay entry

of judgment of conviction and place the person in the pre-conviction forensic diversion program for not more than:

- (1) two (2) years, if the person has been charged with a misdemeanor; or
- (2) three (3) years, if the person has been charged with a felony.

(f) If, after considering the report of the forensic diversion program, the court determines that the person has:

- (1) failed to successfully participate in the forensic diversion program, or failed to successfully complete the program, the court shall lift its stay, enter judgment of conviction, and sentence the person accordingly; or
- (2) successfully completed the forensic diversion program, the court shall waive entry of the judgment of conviction and dismiss the charges.

Sec. 12. (a) A person is eligible to participate in a post-conviction forensic diversion program only if the person meets the following criteria:

- (1) The person has a mental illness or an addictive disorder.
- (2) The person has been convicted of an offense that is:
 - (A) not a violent offense; and
 - (B) not a drug dealing offense.
- (3) The person does not have a conviction for a violent offense in the previous ten (10) years.

(b) If the person has been convicted of an offense that may be suspended, the court shall suspend all or a portion of the person's sentence, place the person on probation for the suspended portion of the person's sentence, and require as a condition of probation that the person successfully participate in and successfully complete the post-conviction forensic diversion program.

(c) If the person has been convicted of an offense that is nonsuspendible, the court shall order the execution of the nonsuspendible sentence and stay execution of all or part of the nonsuspendible portion of the sentence pending the person's successful participation in and successful completion of the post-conviction forensic diversion program. The court shall treat the suspendible portion of a nonsuspendible sentence in accordance with subsection (b).

(d) The person may be required to participate in the

post-conviction forensic diversion program for no more than:

- (1) two (2) years, if the person has been charged with a misdemeanor; or**
- (2) three (3) years, if the person has been charged with a felony.**

The time periods described in this section only limit the amount of time a person may spend in the forensic diversion program and do not limit the amount of time a person may be placed on probation.

(e) If, after considering the report of the forensic diversion program, the court determines that a person convicted of an offense that may be suspended has failed to successfully participate in the forensic diversion program, or has failed to successfully complete the program, the court shall revoke the person's probation and reimpose all or a portion of the person's suspended sentence.

(f) If, after considering the report of the forensic diversion program, the court determines that a person convicted of a nonsuspendible offense failed to successfully participate in the forensic diversion, or failed to successfully complete the program, the court shall lift its stay of execution of the nonsuspendible portion of the sentence and remand the person to the department of correction. However, if the person failed to successfully participate in the forensic diversion program, or failed to successfully complete the program while serving the suspendible portion of a nonsuspendible sentence, the court shall treat the suspendible portion of the sentence in accordance with subsection (e).

(g) If, after considering the report of the forensic diversion program, the court determines that a person convicted of a nonsuspendible offense has successfully completed the program, the court shall waive execution of the nonsuspendible portion of the person's sentence.

Sec. 13. (a) As used in this section, "account" means the forensic diversion program account established as an account within the state general fund by subsection (b).

(b) The forensic diversion program account is established within the state general fund to administer and carry out the purposes of this chapter. The department shall administer the account.

(c) The expenses of administering the account shall be paid from

money in the account.

(d) The treasurer of state shall invest money in the account in the same manner as other public money may be invested.

(e) Money in the account at the end of the state fiscal year does not revert to the state general fund.

(f) The account consists of:

- (1) amounts appropriated by the general assembly; and
- (2) donations, grants, and money received from any other source.

(g) The department shall adopt guidelines governing the disbursement of funds to the advisory board to support the operation of the forensic diversion program.

(h) There is annually appropriated to the department from the account an amount sufficient to carry out the purposes of this chapter.

SECTION 4. IC 12-23-5-1, AS AMENDED BY P.L.224-2003, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) In a criminal proceeding for a misdemeanor or infraction in which:

- (1) the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense; or
- (2) the defendant's mental illness other than substance abuse, is a contributing factor;

the court may take judicial notice of the fact that proper early intervention, medical, advisory, or rehabilitative treatment of the defendant is likely to decrease the defendant's tendency to engage in antisocial behavior.

(b) For purposes of IC 11-12-3.5, in a criminal proceeding in which:

- (1) the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense; or
- (2) the defendant's mental illness other than substance abuse, is a contributing factor;

the court shall take judicial notice of the fact that proper early intervention, medical, advisory, or rehabilitative treatment of the defendant is likely to decrease the defendant's tendency to engage in antisocial behavior.

SECTION 5. IC 12-23-14.5-14, AS ADDED BY P.L.168-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: Sec. 14. (a) A person is eligible to participate in a drug court only if:

- (1) the person meets all criteria established by the drug court;
- (2) the judge approves the admission of the person to the drug court; and
- (3) the offense for which the person is referred to drug court is not any of the following:

(A) A forcible felony (as defined in IC 35-41-1-11).

~~(B) A dealing offense under IC 35-48-4.~~

~~(C)~~ **(B)** Any offense that a local drug court committee agrees to exclude from participation.

The local drug court committee referred to in subdivision ~~(3)(C)~~ **(3)(B)** must include the drug court judge, the local prosecuting attorney, and a local criminal defense attorney.

(b) If a person is eligible to participate in a drug court, a person may be referred to the drug court as a result of any of the following:

- (1) The procedure described in section 15 of this chapter.
- (2) As a term of probation.
- (3) In response to a violation of a condition of probation.

SECTION 6. IC 35-38-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. **(a)** When the defendant appears for sentencing, the court shall inform ~~him~~ **the defendant** of the verdict of the jury or the finding of the court. The court shall afford counsel for the defendant an opportunity to speak on behalf of the defendant. The defendant may also make a statement personally in ~~his~~ **the defendant's** own behalf and, before pronouncing sentence, the court shall ask ~~him~~ **the defendant** whether ~~he~~ **the defendant** wishes to make such a statement. Sentence shall then be pronounced, unless a sufficient cause is alleged or appears to the court for delay in sentencing.

(b) A court that sentences a person to a term of imprisonment shall include the total costs of incarceration in the sentencing order. The court may not consider Class I credit under IC 35-50-6-3 in the calculation of the total costs of incarceration.

SECTION 7. IC 35-40-5-5, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. A victim has the right to be heard at any proceeding involving ~~sentence or sentencing~~, a postconviction release

decision, **or a pre-conviction release decision under a forensic diversion program.**

SECTION 8. IC 35-40-8-1, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. Upon request of a victim, a criminal court shall notify the victim of any probation **or forensic diversion** revocation disposition proceeding or proceeding in which the court is asked to terminate the probation **or forensic diversion** of a person who is convicted of a crime against the victim.

SECTION 9. IC 35-40-8-2, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Upon request of a victim, a criminal court shall notify the victim of a modification of the terms of probation **or a forensic diversion program** of a person convicted of a crime against the victim only if:

- (1) the modification will substantially affect the person's contact with or safety of the victim; or
- (2) the modification affects the person's restitution or confinement status.

SECTION 10. IC 35-41-1-26.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26.8. "Total costs of incarceration" means the average daily cost of incarcerating an offender, as described in IC 11-10-13, multiplied by the number of days the offender is sentenced to a term of imprisonment.**

SECTION 11. IC 35-50-2-2, AS AMENDED BY HEA 1264, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under ~~IC 11-12-3.5~~ **IC 11-12-3.7:**

- (1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.
- (2) The crime committed was a Class C felony and less than seven

(7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

- (A) murder (IC 35-42-1-1);
- (B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;
- (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
- (D) kidnapping (IC 35-42-3-2);
- (E) confinement (IC 35-42-3-3) with a deadly weapon;
- (F) rape (IC 35-42-4-1) as a Class A felony;
- (G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;
- (H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;
- (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
- (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
- (K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
- (L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;
- (M) escape (IC 35-44-3-5) with a deadly weapon;
- (N) rioting (IC 35-45-1-2) with a deadly weapon;
- (O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm

(as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

(R) an offense under IC 9-30-5-5 (operating a vehicle while intoxicated causing death) if the person had:

- (i) at least fifteen-hundredths (0.15) gram of alcohol per one hundred (100) milliliters of the person's blood, or at least fifteen-hundredths (0.15) gram of alcohol per two hundred ten (210) liters of the person's breath; or
- (ii) a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or

(S) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary

manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of an offender's (as defined in IC 5-2-12-4) sentence that is suspendible under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 12. IC 36-2-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) The sheriff shall:

- (1) arrest without process persons who commit an offense within **his the sheriff's** view, take them before a court of the county having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;
- (2) suppress breaches of the peace, calling the power of the county to **his the sheriff's** aid if necessary;
- (3) pursue and jail felons;
- (4) execute all process directed to **him the sheriff** by legal authority;
- (5) serve all process directed to **him the sheriff** from a court or the county executive;
- (6) attend and preserve order in all courts of the county;
- (7) take care of the county jail and the prisoners there; **and**
- (8) take photographs, fingerprints, and other identification data as **he the sheriff** shall prescribe of persons taken into custody for felonies or misdemeanors; **and**
- (9) on or before January 31 and June 30 of each year, provide to the department of correction the average daily cost of incarcerating a prisoner in the county jail as determined under the methodology developed by the department of correction under IC 11-10-13.**

(b) A person who:

- (1) refuses to be photographed;
- (2) refuses to be fingerprinted;
- (3) withholds information; or
- (4) gives false information;

as prescribed in subsection (a)(8), commits a Class C misdemeanor.

SECTION 13. [EFFECTIVE JULY 1, 2004] (a) As used in this SECTION, "committee" refers to the forensic diversion study committee established by subsection (c).

(b) As used in this SECTION, "forensic diversion program" means the program established under IC 11-12-3.7, as added by this act, and any similar program that treats persons charged with or convicted of offenses eligible for forensic diversion who have a mental illness or addictive disorder.

(c) There is established the forensic diversion study committee. The committee shall:

- (1) evaluate the effectiveness and appropriateness of forensic diversion programs within Indiana and in other jurisdictions; and**
- (2) review the adequacy of funding provided for forensic diversion programs.**

(d) The committee consists of fifteen (15) members appointed as follows:

- (1) Two (2) members of the senate, who may not be affiliated with the same political party, to be appointed by the president pro tempore of the senate.**
- (2) Two (2) members of the house of representatives, who may not be affiliated with the same political party, to be appointed by the speaker of the house of representatives.**
- (3) The chief justice of the supreme court or the chief justice's designee.**
- (4) The commissioner of the department of correction or the commissioner's designee.**
- (5) The director of the Indiana criminal justice institute or the director's designee.**
- (6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.**
- (7) The executive director of the public defender of Indiana council or the executive director's designee.**
- (8) The secretary of family and social services, or the**

secretary's designee.

(9) One (1) person with experience in administering community corrections programs, appointed by the governor.

(10) One (1) person with experience in administering probation programs, appointed by the governor.

(11) One (1) person with experience in treating mental illness, appointed by the governor.

(12) One (1) person with experience in treating addictive disorders, appointed by the governor.

(13) Two (2) judges who exercise criminal jurisdiction, who may not be affiliated with the same political party, appointed by the governor.

(14) One (1) law enforcement officer with experience in programs that provide alternatives to incarceration for persons with mental illness or addictive disorders, appointed by the governor.

(e) The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman of the legislative council may remove the chair of the committee and appoint another chair.

(f) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

(g) A legislative member of the committee may be removed at any time by the authority who appointed the legislative member.

(h) If a vacancy exists on the committee, the authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

(i) The committee shall submit a final report of its study to the legislative council before November 1, 2007.

(j) The Indiana criminal justice institute shall provide staff support to the committee.

(k) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

(l) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take

action on any measure, including the final report.

(m) The committee:

(1) shall meet at the call of the chair; and

(2) may meet at any time before October 15, 2007.

(n) Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this SECTION shall be paid from appropriations to the legislative council and legislative services agency.

(o) This SECTION expires December 31, 2007.

SECTION 14. IC 11-12-3.5 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 15. IC 33-34-8-1, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The following fees and costs apply to cases in the small claims court:

(1) A township docket fee of five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.

(2) The bailiff's service of process by registered or certified mail fee of thirteen dollars (\$13) for each service.

(3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars (\$13) for each service.

(4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.

(5) A redocketing fee, if any, of five dollars (\$5).

(6) A document storage fee under IC 33-37-5-20.

(7) An automated record keeping fee under IC 33-37-5-21.

(8) A late fee, if any, under IC 33-37-5-22.

(9) A judicial administration fee under IC 33-37-5-21.2.

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 16. IC 33-37-4-1, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
- (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (7) A child abuse prevention fee (IC 33-37-5-12).
- (8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
- (9) A highway work zone fee (IC 33-37-5-14).
- (10) A deferred prosecution fee (IC 33-37-5-17).
- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).

(15) A judicial administration fee under IC 33-37-5-21.2.

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) The clerk shall apply the partial payment to general court costs.
- (2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
- (3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.
- (4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.
- (5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 17. IC 33-37-4-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or

IC 33-37-5-4).

(2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(5) A highway work zone fee (IC 33-37-5-14).

(6) A deferred prosecution fee (IC 33-37-5-17).

(7) A jury fee (IC 33-19-6-17). (IC 33-37-5-19).

(8) A document storage fee (IC 33-37-5-20).

(9) An automated record keeping fee (IC 33-37-5-21).

(10) A late payment fee (IC 33-37-5-22).

(11) A judicial administration fee under IC 33-37-5-21.2.

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

(1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).

(2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

(3) The deferral program fee (subsection e).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

(1) The defendant was charged with an ordinance violation subject to IC 33-36.

(2) The defendant denied the violation under IC 33-36-3.

(3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).

(4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the

violation. The deferral program fee is:

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-4 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 18. IC 33-37-4-3, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following

- (1) IC 31-34 (children in need of services).
- (2) IC 31-37 (delinquent children).
- (3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (6) A document storage fee (IC 33-37-5-20).
- (7) An automated record keeping fee (IC 33-37-5-21).
- (8) A late payment fee (IC 33-37-5-22).

(9) A judicial administration fee under IC 33-37-5-21.2.

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

- (1) The marijuana eradication program fee (IC 33-37-5-7).
- (2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

SECTION 19. IC 33-37-4-4, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:

- (1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- (4) Proceedings in paternity under IC 31-14.
- (5) Proceedings in small claims court under IC 33-34.
- (6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A support and maintenance fee (IC 33-37-5-6).
- (3) A document storage fee (IC 33-37-5-20).
- (4) An automated record keeping fee (IC 33-37-5-21).

(5) A judicial administration fee under IC 33-37-5-21.2.

SECTION 20. IC 33-37-4-5, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars (\$35). However, a clerk may not collect a small claims costs fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A document storage fee (IC 33-37-5-20).
- (3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial administration fee under IC 33-37-5-21.2.

(c) This section expires July 1, 2005.

SECTION 21. IC 33-37-4-6, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) For each small claims action, the clerk shall collect from the party filing the action both of the following fees:

(1) A small claims costs fee of thirty-five dollars (\$35).

(2) A small claims service fee of five dollars (\$5) for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial administration fee under IC 33-37-5-21.2.

(c) This section applies after June 30, 2005.

SECTION 22. IC 33-37-4-7, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

(1) IC 6-4.1-5 (determination of inheritance tax).

(2) IC 29 (probate).

(3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial administration fee under IC 33-37-5-21.2.

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
- (3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 23. IC 33-37-5-21.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2004]: **Sec. 21.2. (a) This subsection does not apply to the following:**

- (1) A criminal proceeding.**
- (2) A proceeding for an infraction violation.**
- (3) A proceeding for an ordinance violation.**

In each action filed in a court described in IC 33-37-1-1, the clerk shall collect a judicial administration fee of, in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, two dollars (\$2).

(b) In each action in which a person is:

- (1) convicted of an offense;**
- (2) required to pay a pretrial diversion fee;**
- (3) found to have violated an infraction; or**
- (4) found to have violated an ordinance;**

the clerk shall collect a judicial administration fee of, in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, two dollars (\$2).

SECTION 24. IC 33-37-7-1, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:**

- (1) IC 33-37-4-1(a) (criminal costs fees).**
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).**
- (3) IC 33-37-4-3(a) (juvenile costs fees).**
- (4) IC 33-37-4-4(a) (civil costs fees).**
- (5) IC 33-37-4-5(a) (small claims costs fees).**

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established by IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under, IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county

auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.

~~(h)~~ (i) This section expires July 1, 2005.

SECTION 25. IC 33-37-7-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The clerk of a circuit court shall distribute

semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this

subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(2) for deposit in the county general fund.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.

†(j) This section applies after June 30, 2005.

SECTION 26. IC 33-37-7-7, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-5 (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-5 (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-5 (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established by IC 33-37-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall monthly distribute to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.

~~(g)~~ (h) This section expires July 1, 2005.

SECTION 27. IC 33-37-7-8, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for

deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.

~~(g)~~ **(h)** This section applies after June 30, 2005.

SECTION 28. IC 33-37-7-9, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state six million seven hundred four thousand two hundred fifty-seven dollars (\$6,704,257) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to eleven and eight-hundredths percent (11.08%);

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to twenty-five and twenty-one hundredths percent (25.21%);

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to three and fifty-two hundredths

percent (3.52%);

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to fourteen and nineteen-hundredths percent (14.19%);

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to sixteen and fifty-hundredths percent (16.50%);

(6) the motor vehicle highway account an amount equal to twenty-six and ninety-five hundredths percent (26.95%);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to thirty-two hundredths of one percent (0.32%); and

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and twenty-three hundredths percent (2.23%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year the auditor of state shall transfer to the treasurer of state **for deposit into the public defense fund established under IC 33-40-6-1:**

(1) after June 30, 2004, and before July 1, 2005, one million ~~two seven~~ hundred thousand dollars (~~\$1,200,000~~) **(\$1,700,000)** for deposit into the public defense fund established under ~~IC 33-40-6-1~~; and

(2) after June 30, 2005, two million two hundred thousand dollars **(\$2,200,000).**

SECTION 29. IC 33-40-6-6, AS ADDED BY SEA 263-2004, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) ~~If the public defense fund would be reduced below two hundred fifty thousand dollars (\$250,000) by payment in full of all county reimbursement for net expenditures in noncapital cases that is certified by the division of state court administration in any quarter; the public defender commission shall suspend payment of reimbursement to counties in noncapital cases until the next semiannual deposit in the public defense fund. At the end of the suspension period; the division of state court administration shall certify all suspended reimbursement.~~

(b) If the public defense fund would be reduced below two hundred fifty thousand dollars (\$250,000) by payment in full of all suspended reimbursement in noncapital cases, the amount certified by the division of state court administration for each county entitled to reimbursement shall be prorated. **The commission shall give priority to certified claims for reimbursement in capital cases. If the balance in the public defense fund is not adequate to fully reimburse all certified claims in noncapital cases, the commission shall prorate reimbursement of certified claims in noncapital cases.**

SECTION 30. IC 11-8-1-5.6, AS AMENDED BY P.L.291-2001, SECTION 223, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.6. "Community transition program commencement date" means the following:

(1) **Not earlier than** sixty (60) days **and not later than thirty (30) days** before an offender's expected release date, if the most serious offense for which the person is committed is a Class D felony.

(2) **Not earlier than** ninety (90) days **and not later than thirty (30) days** before an offender's expected release date, if the most serious offense for which the person is committed is a Class C felony and subdivision (3) does not apply.

(3) **Not earlier than** one hundred twenty (120) days **and not later than thirty (30) days** before an offender's expected release date, if:

(A) the most serious offense for which the person is committed is a Class C felony;

(B) all of the offenses for which the person was concurrently or consecutively sentenced are offenses under IC 16-42-19 or IC 35-48-4; and

(C) none of the offenses for which the person was concurrently or consecutively sentenced are listed in IC 35-50-2-2(b)(4).

(4) **Not earlier than** one hundred twenty (120) days **and not later than thirty (30) days** before an offender's expected release date, if the most serious offense for which the person is committed is a Class A or Class B felony and subdivision (5) does not apply.

(5) **Not earlier than** one hundred eighty (180) days **and not later than thirty (30) days** before an offender's expected release date,

if:

- (A) the most serious offense for which the person is committed is a Class A or Class B felony;
- (B) all of the offenses for which the person was concurrently or consecutively sentenced are offenses under IC 16-42-19 or IC 35-48-4; and
- (C) none of the offenses for which the person was concurrently or consecutively sentenced are listed in IC 35-50-2-2(b)(4).

SECTION 31. IC 11-10-11.5-1, AS AMENDED BY P.L.90-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. This chapter applies to a person:

- (1) who is committed to the department under IC 35-50 for one (1) or more felonies; ~~other than murder~~; and
- (2) against whom a court imposed a sentence of at least two (2) years.

SECTION 32. IC 11-10-11.5-2, AS AMENDED BY P.L.90-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** Not earlier than sixty (60) days and not later than forty-five (45) days before an offender's community transition program commencement date, the department shall give written notice of the offender's eligibility for a community transition program to each court that sentenced the offender for a period of imprisonment that the offender is still actively serving. The notice must include the following information:

- (1) The person's name.
- (2) A description of the offenses for which the person was committed to the department.
- (3) The person's expected release date.
- (4) The person's community transition program commencement date **designated by the department.**
- (5) The person's current security and credit time classifications.
- (6) A report summarizing the person's conduct while committed to the department.
- (7) Any other information that the department determines would assist the sentencing court in determining whether to issue an order under IC 35-38-1-24 or IC 35-38-1-25.

(b) However, If the offender's expected release date changes as the result of the ~~gain~~ or loss of credit time after notice is sent to each court

under this section, the offender may become ineligible for a community transition program.

(c) If the offender's expected release date changes as the result of the gain of credit time after notice is sent to each court under this section, the offender may be assigned to a community transition program if the department determines that:

(1) a sufficient amount of time exists to allow a court under IC 35-38-1-24 or IC 35-38-1-25 to consider a written statement described in section 4.5 of this chapter; and

(2) an offender will have at least thirty (30) days remaining on the offender's sentence after the court's consideration of a written statement under subdivision (1), calculated as follows:

(A) Beginning on the date the department will assign the offender to a minimum security classification and place the offender in a community transition program.

(B) Ending with the recalculated expected release date.

(d) The department shall notify each court whenever the department finds that an offender is ineligible for the program because of a change in the person's credit time.

SECTION 33. IC 11-10-11.5-4.5, AS ADDED BY P.L.90-2000, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) Before the department may assign an offender to a minimum security classification and place the offender in a community transition program, the department shall notify:

(1) the offender and any victim of the offender's crime of the right to submit a written statement regarding the offender's assignment to the community transition program; and

(2) the offender of the right to submit a written statement objecting to the offender's placement in a community transition program;

to each court that sentenced the offender to a period of imprisonment that the offender is actively serving. If the name or address of a victim of the offender's crime changes after the offender is sentenced for the offense, and the offender's sentence may result in the offender's assignment to the community transition program, the victim is responsible for notifying the department of the name or address change.

(b) An offender or a victim of the offender's crime who wishes to submit a written statement under ~~this section~~ **subsection (a)(1)** must

submit the statement to each court **and the department** not later than ten (10) working days after receiving notice from the department under subsection (a).

(c) An offender's written statement objecting to the offender's placement in a community transition program under subsection (a)(2) must be submitted to each court and the department:

(1) not later than ten (10) working days after receiving notice from the department under subsection (a); or

(2) before the offender is transported under section 7 of this chapter;

whichever occurs first.

SECTION 34. IC 11-10-11.5-5, AS AMENDED BY P.L.90-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) This section applies to a person if the most serious offense for which the person is committed is a Class C or Class D felony.

(b) Unless the department has received:

(1) an order under IC 35-38-1-24; or

(2) a warrant order of detainer seeking the transfer of the person to a county or another jurisdiction;

the department shall assign a person to a minimum security classification and place the person in a community transition program beginning with the ~~person's~~ community transition program commencement date **designated by the department** until the person completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to the term.

SECTION 35. IC 11-10-11.5-7, AS ADDED BY P.L.273-1999, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. Not later than ~~the first seven~~ **(7)** regular business ~~day~~ **days** after a person is assigned to a community transition program under this chapter, the department shall:

(1) comply with the procedures in IC 11-10-12-1(a)(1) and IC 11-10-12-1(a)(2); and

(2) transport the person to:

(A) the sheriff of the county where the person's case originated; or to

(B) any other person ordered by the sentencing court; or

(C) a person or an entity designated by the supervising

authority of the community transition program to which the person is assigned.

The department may, upon request of the person, issue the work clothing described in IC 11-10-12-1(b).

SECTION 36. IC 11-10-11.5-8, AS AMENDED BY P.L.90-2000, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The person **or entity** receiving the offender under section 7 of this chapter shall transfer the offender to the intake person for the community transition program.

(b) As soon as is practicable after receiving the offender, the community transition program shall

(1) provide the offender with a reasonable opportunity to review the rules and conditions applicable to the offender's assignment in the program. **and**

(2) ~~obtain the offender's written agreement to abide by all of the rules and conditions of the program:~~

(c) **★ The department may take disciplinary action under IC 11-11-5 against an offender who:**

(1) **has been assigned to a minimum security classification and placed in a community transition program; and**

(2) **refuses to participate in the community transition program.** shall provide an offender with a written document stating that any offender who is assigned to a community transition program participates in the program on a voluntary basis. An offender must agree in writing that the offender's participation in the program is voluntary; before the offender may be allowed to participate in the program:

SECTION 37. IC 11-10-11.5-11.5, AS ADDED BY P.L.90-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11.5. (a) **Except as provided in section 4.5 of this chapter**, an offender is **not** entitled to refuse to be placed into a community transition program. However, if the offender **does not** refuse the placement and agrees in writing to voluntarily participate, as required by section 8 of this chapter, the offender is considered to participate in the community transition program on a voluntary basis. **may request that an assignment to a community transition program be delayed if the offender will be enrolled in department programming on the community transition program**

commencement date designated by the department.

(b) The community transition program, **following a hearing and upon a finding of probable cause that the offender has failed to comply with a rule or condition under section 11 of this chapter, shall cause the department to:** ~~may:~~

(1) request a court to issue a warrant ordering the department to immediately:

(A) return the offender to the department; and or

(2) (B) reassign the offender to a program or facility administered by the department; or

(2) take disciplinary action against an offender who violates rules of conduct. Disciplinary action under this subdivision may include the loss of earned credit time under IC 35-50-6-5.

(c) An offender who is returned to the department under subsection (b) is not eligible for assignment to another community transition program for the duration of the sentence or sentences the offender is actively serving.

SECTION 38. IC 11-11-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. **(a)** A person may be prohibited from visiting a confined person, or the visit may be restricted to an extent greater than allowed under section 8 of this chapter, if the department has reasonable grounds to believe that the visit would threaten the security of the facility or program or the safety of individuals.

(b) The department may restrict any person less than eighteen (18) years of age from visiting an offender, if:

(1) the offender has been:

(A) convicted of a sex offense under IC 35-42-4; or

(B) adjudicated delinquent as a result of an act that would be considered a sex offense under IC 35-42-4 if committed by an adult; and

(2) the victim of the sex offense was less than eighteen (18) years of age at the time of the offense.

(c) If the department prohibits or restricts visitation between a confined person and another person under this section, it shall notify the confined person of that prohibition or restriction. The notice must be in writing and include the reason for the action, the name of the person who made the decision, and the fact that the action may be

challenged through the grievance procedure.

(d) The department shall establish written guidelines for implementing this section.

SECTION 39. IC 35-38-1-25, AS AMENDED BY P.L.90-2000, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25. (a) This section applies to a person if the most serious offense for which the person is committed is **murder**, a Class A **felony**, or a Class B felony.

(b) A sentencing court may sentence a person or modify the sentence of a person to assign the person to a community transition program for any period that begins after the person's community transition program commencement date (as defined in IC 11-8-1-5.6) and ends when the person completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to the term, if the court makes specific findings of fact that support a determination that it is in the best interests of justice to make the assignment. The order may include any other condition that the court could impose if the court had placed the person on probation under IC 35-38-2 or in a community corrections program under IC 35-38-2.6.

(c) The court may make a determination under this section without a hearing. The court shall consider any written statement presented to the court by a victim of the offender's crime or by an offender under IC 11-10-11.5-4.5. The court in its discretion may consider statements submitted by a victim after the time allowed for the submission of statements under IC 11-10-11.5-4.5.

(d) The court shall make written findings for a determination under this section, whether or not a hearing was held.

(e) Not later than five (5) days after making a determination under this section, the court shall send a copy of the order to the:

- (1) prosecuting attorney where the person's case originated; and
- (2) department of correction.

SECTION 40. IC 5-2-1-9, AS AMENDED BY P.L.45-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. Such rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment,

successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e) and (l), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;
 - (2) police reserve officers (as described in IC 36-8-3-20); and
 - (3) conservation reserve officers (as described in IC 14-9-8-27);
- regarding the subjects of arrest, search and seizure, use of force, and

firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs.

Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board. In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to any of the following:

- (1) An emergency situation.
- (2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

- (1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the

mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having no more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

- (1) Liability.
- (2) Media relations.
- (3) Accounting and administration.
- (4) Discipline.
- (5) Department policy making.
- (6) Firearm policies.
- (7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

- (1) the police chief of any city; and
- (2) the police chief of any town having a metropolitan police department.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

- (1) before January 1, 1994, is not required; or
- (2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

SECTION 41. IC 11-8-2-8, AS AMENDED BY P.L.25-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) All officers and employees of the department, with the exception of the members of the board, members of the parole board, the commissioner, any deputy commissioner, and any superintendent, are within the scope of IC 4-15-2.

(b) IC 11-10-5 applies to teachers employed under that chapter, notwithstanding IC 4-15-2.

(c) The department shall cooperate with the state personnel department in establishing minimum qualification standards for employees of the department and in establishing a system of personnel recruitment, selection, employment, and distribution.

(d) The department shall conduct training programs designed to equip employees for duty in its facilities and programs and raise their level of performance. Training programs conducted by the department need not be limited to inservice training. They may include preemployment training, internship programs, and scholarship programs in cooperation with appropriate agencies. When funds are appropriated, the department may provide educational stipends or tuition reimbursement in such amounts and under such conditions as may be determined by the department and the personnel division.

(e) The department shall conduct a training program on cultural diversity awareness that must be a required course for each employee of the department who has contact with incarcerated persons.

(f) The department shall provide six (6) hours of training to employees who interact with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities concerning the interaction, to be taught by persons approved by the secretary of family and social services, using teaching methods approved by the secretary of family and social services and the commissioner. The commissioner or the commissioner's designee may credit hours of substantially similar training received by an employee toward the required six (6) hours of training.

(g) The department shall establish a correctional officer training program with a curriculum, and administration by agencies, to be determined by the commissioner. A certificate of completion shall be issued to any person satisfactorily completing the training program. A certificate may also be issued to any person who has received training in another jurisdiction if the commissioner determines that the training was at least equivalent to the training program maintained under this subsection.

SECTION 42. IC 11-12-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **(a)** For the purpose of encouraging counties to develop a coordinated local corrections-criminal justice system and providing effective alternatives to imprisonment at the state level, the commissioner shall, out of funds appropriated for such purposes, make grants to counties for the establishment and operation of community corrections programs. Appropriations intended for this purpose may not be used by the department for any other purpose. Money appropriated to the department of correction for the purpose of making grants under this chapter, and charges made against a county under section 9, do not revert to the state general fund at the close of any fiscal year, but remain available to the department of correction for its use in making grants under this chapter.

(b) The commissioner shall give priority in issuing community corrections grants to programs that provide alternative sentencing projects for persons with mental illness, addictive disorders, mental retardation, and developmental disabilities.

SECTION 43. IC 11-12-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) As used in this section, "jail officer" means a person whose duties include the daily or ongoing supervision of county jail inmates.

(b) A person may be confined in the county jail only if there is a jail officer stationed in the jail.

(c) A jail officer whose employment begins after December 31, 1985, shall complete the training required by this section during the first year of employment. This subsection does not apply to a jail officer who:

(1) has successfully completed minimum basic training requirements (other than training completed under IC 5-2-1-9(h)) for law enforcement officers established by the law enforcement training board; or

(2) is a law enforcement officer and is exempt from the training requirements of IC 5-2-1. For purposes of this subdivision, completion of the training requirements of IC 5-2-1-9(h) does not exempt an officer from the minimum basic training requirements of IC 5-2-1.

(d) The law enforcement training board shall develop a forty (40) hour program for the specialized training of jail officers. **The program training must include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.** The remainder of the training shall be provided by the board.

(e) The board shall certify each person who successfully completes such a training program.

(f) The department shall pay the cost of training each jail officer.

SECTION 44. IC 11-13-1-8, AS AMENDED BY SEA 263-2004, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established by ~~IC 33-33-9-3~~. **IC 33-38-9-3.**

(b) The board shall adopt rules consistent with this chapter, prescribing minimum standards concerning:

(1) educational and occupational qualifications for employment

as a probation officer;

(2) compensation of probation officers;

(3) protection of probation records and disclosure of information contained in those records; and

(4) presentence investigation reports.

(c) The conference shall prepare a written examination to be used in establishing lists of persons eligible for appointment as probation officers. The conference shall prescribe the qualifications for entrance to the examination and establish a minimum passing score and rules for the administration of the examination after obtaining recommendations on these matters from the probation standards and practices advisory committee. The examination must be offered at least once every other month.

(d) The conference shall, by its rules, establish an effective date for the minimum standards and written examination for probation officers.

(e) The conference shall provide probation departments with training and technical assistance for:

(1) the implementation and management of probation case classification; and

(2) the development and use of workload information.

The staff of the Indiana judicial center may include a probation case management coordinator and probation case management assistant.

(f) The conference shall, in cooperation with the division of family and children and the department of education, provide probation departments with training and technical assistance relating to special education services and programs that may be available for delinquent children or children in need of services. The subjects addressed by the training and technical assistance must include the following:

(1) Eligibility standards.

(2) Testing requirements and procedures.

(3) Procedures and requirements for placement in programs provided by school corporations or special education cooperatives under IC 20-1-6.

(4) Procedures and requirements for placement in residential special education institutions or facilities under IC 20-1-6-19 and ~~511 IAC 7-12-5~~. **511 IAC 7-27-12.**

(5) Development and implementation of individual education programs for eligible children in:

(A) accordance with applicable requirements of state and federal laws and rules; and

(B) in coordination with:

(i) individual case plans; and

(ii) informal adjustment programs or dispositional decrees entered by courts having juvenile jurisdiction under IC 31-34 and IC 31-37.

(6) Sources of federal, state, and local funding that is or may be available to support special education programs for children for whom proceedings have been initiated under IC 31-34 and IC 31-37.

Training for probation departments may be provided jointly with training provided to child welfare caseworkers relating to the same subject matter.

(g) The conference shall, in cooperation with the division of mental health and addiction (IC 12-21) and the division of disability, aging, and rehabilitative services (IC 12-9-1), provide probation departments with training and technical assistance concerning mental illness, addictive disorders, mental retardation, and developmental disabilities.

(h) The conference shall make recommendations to courts and probation departments concerning:

(1) selection, training, distribution, and removal of probation officers;

(2) methods and procedure for the administration of probation, including investigation, supervision, workloads, record keeping, and reporting; and

(3) use of citizen volunteers and public and private agencies.

~~(h)~~ **(i)** The conference may delegate any of the functions described in this section to the advisory committee or the Indiana judicial center.

SECTION 45. [EFFECTIVE JULY 1, 2004] (a) IC 5-2-1-9, IC 11-8-2-8, and IC 11-12-4-4, all as amended by this act, do not require a training program for interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities until January 1, 2005.

(b) This SECTION expires January 1, 2005.

SECTION 46. [EFFECTIVE JULY 1, 2004] (a) IC 11-12-2-1, as amended by this act, does not apply to the issuing of community

corrections grants that provide alternative sentencing projects for persons with mental illness, addictive disorders, mental retardation, and developmental disabilities by the commissioner of the department of correction until January 1, 2005.

(b) This SECTION expires January 1, 2005.

SECTION 47. [EFFECTIVE JULY 1, 2004] (a) IC 11-13-1-8, as amended by this act, does not require the judicial conference of Indiana, the division of mental health, and the division of disability, aging, and rehabilitative services to provide probation departments with training and technical assistance concerning mental illness, addictive disorders, mental retardation, and developmental disabilities until January 1, 2005.

(b) This SECTION expires January 1, 2005.

SECTION 48. IC 9-30-5-15, AS AMENDED BY P.L.32-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) In addition to any criminal penalty imposed for an offense under this chapter, the court shall:

(1) order:

(A) that the person be imprisoned for at least five (5) days; or

(B) the person to perform at least ~~thirty (30) days~~ **one hundred eighty (180) hours** of community restitution or service; and

(2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has one (1) previous conviction of operating while intoxicated.

(b) In addition to any criminal penalty imposed for an offense under this chapter, the court shall:

(1) order:

(A) that the person be imprisoned for at least ten (10) days; or

(B) the person to perform at least ~~sixty (60) days~~ **three hundred sixty (360) hours** of community restitution or service; and

(2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to

successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has at least two (2) previous convictions of operating while intoxicated.

(c) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a sentence imposed under this section may not be suspended. The court may require that the person serve the term of imprisonment in an appropriate facility at whatever time or intervals (consecutive or intermittent) determined appropriate by the court. However:

(1) at least forty-eight (48) hours of the sentence must be served consecutively; and

(2) the entire sentence must be served within six (6) months after the date of sentencing.

(d) Notwithstanding IC 35-50-6, a person does not earn credit time while serving a sentence imposed under this section.

SECTION 49. IC 20-10.1-22.4-3, AS AMENDED BY P.L.2-2003, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) As used in this section, "juvenile justice agency" has the meaning set forth in IC 10-13-4-5.

(b) A school corporation or other entity to which the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) apply may disclose or report on the education records of a child, including personally identifiable information contained in the education records, without the consent of the child's parent, guardian, or custodian, under the following conditions:

(1) The disclosure or reporting of education records is to a state or local juvenile justice agency.

(2) The disclosure or reporting relates to the ability of the juvenile justice system to serve, before adjudication, the student whose records are being released.

(3) The juvenile justice agency receiving the information certifies, in writing, to the entity providing the information that the agency or individual receiving the information has agreed not to disclose it to a third party, other than another juvenile justice agency, without the consent of the child's parent, guardian, or custodian.

(c) For purposes of subsection (b)(2), a disclosure or reporting of

education records concerning a child who has been adjudicated as a delinquent child shall be treated as related to the ability of the juvenile justice system to serve the child before adjudication if the juvenile justice agency seeking the information provides sufficient information to enable the keeper of the education records to determine that the juvenile justice agency seeks the information in order to identify and intervene with the child as a juvenile at risk of delinquency rather than to obtain information solely related to supervision of the child as an adjudicated delinquent child.

(d) A school corporation or other entity to which the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) apply that:

- (1) discloses or reports on the education records of a child, including personally identifiable information contained in the education records, in violation of this section; and**
- (2) makes a good faith effort to comply with this section;**

is immune from civil liability.

SECTION 50. IC 31-9-2-113.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 113.5. "School", for purposes of IC 31-39-2-13.8, means a:**

- (1) public school (including a charter school as defined in IC 20-5.5-1-4); or**
- (2) non-public school (as defined in IC 20-10.1-1-3);**

that must comply with the education records privacy provisions of the Family Educational Rights and Privacy Act (20 U.S.C. 1232g) to be eligible to receive designated federal education funding.

SECTION 51. IC 31-39-2-13.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 13.8. (a) The juvenile court may grant a school access to all or a portion of the juvenile court records of a child who is a student at the school if:**

- (1) the superintendent, or the superintendent's designee;**
- (2) the chief administrative officer of a nonpublic school, or the chief administrative officer's designee; or**
- (3) the individual with administrative control within a charter school, or the individual's designee;**

submits a written request that meets the requirements of

subsection (b).

(b) A written request must establish that the juvenile court records described in subsection (a) are necessary for the school to:

- (1) serve the educational needs of the child whose records are being released; or**
- (2) protect the safety or health of a student, an employee, or a volunteer at the school.**

(c) A juvenile court that releases juvenile court records under this section shall provide notice to the child and to the child's parent, guardian, or custodian that the child's juvenile records have been disclosed to the school.

(d) A juvenile court that releases juvenile court records under this section shall issue an order requiring the school to keep the juvenile court records confidential. A confidentiality order issued under this subsection does not prohibit a school that receives juvenile court records from forwarding the juvenile records to:

- (1) another school; or**
- (2) a person if a parent, guardian, or custodian of the child consents to the release of the juvenile court records to the person.**

A school or a person that receives juvenile court records under this subsection must keep the juvenile court records confidential.

SECTION 52. IC 34-30-2-85.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 85.5. IC 20-10.1-22.4-3 (Concerning the disclosure or reporting of education records of a child).**

SECTION 53. IC 35-42-2-6, AS AMENDED BY P.L.88-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6. (a) As used in this section, "corrections officer" includes a person employed by:**

- (1) the department of correction;**
- (2) a law enforcement agency; or**
- (3) a county jail; or**
- (4) a circuit, superior, county, probate, city, or town court.**

(b) As used in this section, "human immunodeficiency virus (HIV)" includes acquired immune deficiency syndrome (AIDS) and AIDS related complex.

(c) A person who knowingly or intentionally in a rude, insolent, or angry manner places blood or another body fluid or waste on a law enforcement officer or a corrections officer identified as such and while engaged in the performance of official duties or coerces another person to place blood or another body fluid or waste on the law enforcement officer or corrections officer commits battery by body waste, a Class D felony. However, the offense is:

(1) a Class C felony if the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with:

- (A) hepatitis B;
- (B) HIV; or
- (C) tuberculosis;

(2) a Class B felony if:

- (A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with hepatitis B and the offense results in the transmission of hepatitis B to the other person; or
- (B) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class A felony if:

- (A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with HIV; and
- (B) the offense results in the transmission of HIV to the other person.

(d) A person who knowingly or intentionally in a rude, an insolent, or an angry manner places human blood, semen, urine, or fecal waste on another person commits battery by body waste, a Class A misdemeanor. However, the offense is:

(1) a Class D felony if the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with:

- (A) hepatitis B;
- (B) HIV; or
- (C) tuberculosis;

(2) a Class C felony if:

- (A) the person knew or recklessly failed to know that the

blood, semen, urine, or fecal waste was infected with hepatitis B and the offense results in the transmission of hepatitis B to the other person; or

(B) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with HIV; and

(B) the offense results in the transmission of HIV to the other person.

SECTION 54. IC 35-50-5-3, AS AMENDED BY P.L.88-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Except as provided in subsection (i), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

(1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);

(2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;

(3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;

(4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and

(5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.

(b) A restitution order under subsection (a) or (i) is a judgment lien that:

(1) attaches to the property of the person subject to the order;

- (2) may be perfected;
- (3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and
- (4) expires;

in the same manner as a judgment lien created in a civil proceeding.

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to:

(1) the victim services division of the Indiana criminal justice institute in an amount not exceeding:

- (†) (A)** the amount of the award, if any, paid to the victim under IC 5-2-6.1; and
- (2) (B)** the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8; **or**

(2) a probation department that shall forward restitution or part of restitution to:

- (A) a victim of a crime;**
- (B) a victim's estate; or**
- (C) the family of a victim who is deceased.**

The victim services division of the Indiana criminal justice institute shall deposit the restitution ~~received~~ **it receives** under this subsection in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) When a restitution order is issued under subsection (a) or (i), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. The restitution order must include the following information:

- (1) The name and address of the person that is to receive the restitution.
- (2) The amount of restitution the person is to receive.

Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by IC 33-17-2-3. The clerk shall also notify the department of insurance of an order of restitution under subsection (i).

(e) An order of restitution under subsection (a) or (i) does not bar a civil action for:

(1) damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damage that is the basis of restitution ordered by the court; and

(2) other damages suffered by the victim.

(f) Regardless of whether restitution is required under subsection (a) as a condition of probation or other sentence, the restitution order is not discharged by the completion of any probationary period or other sentence imposed for a felony or misdemeanor.

(g) A restitution order under subsection (a) or (i) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6, IC 34-1-12, or IC 34-2-7 before their repeal).

(h) The attorney general may pursue restitution ordered by the court under subsections (a) and (c) on behalf of the victim services division of the Indiana criminal justice institute established under IC 5-2-6-8.

(i) The court may order the person convicted of an offense under IC 35-43-9 to make restitution to the victim of the crime. The court shall base its restitution order upon a consideration of the amount of money that the convicted person converted, misappropriated, or received, or for which the convicted person conspired. The restitution order issued for a violation of IC 35-43-9 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for a violation of IC 35-43-9.

P.L.86-2004

[H.1448. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning the general assembly.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-7-3-6, AS AMENDED BY P.L.162-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A lobbyist shall file a written report with respect to a member of the general assembly whenever either of the following occurs:

- (1) The lobbyist has made a purchase described in IC 2-2.1-3-2(a)(7) with respect to that member. This subdivision does not apply to purchases made ~~after December 31, 1998~~, by a lobbyist from a legislator's retail business made in the ordinary course of business at prices that are available to the general public. For purposes of this subdivision, a legislator's business is considered a retail business if the business is a retail merchant as defined in IC 6-2.5-1-8.
- (2) The lobbyist has made a gift described in IC 2-2.1-3-2(a)(8) to that member.
- (b) A report required by subsection (a) must state the following:
 - (1) The name of the lobbyist.
 - (2) Whether the report covers a purchase described in IC 2-2.1-3-2(a)(7) or a gift described in IC 2-2.1-3-2(a)(8).
- (c) A lobbyist shall file a copy of a report required by this section with all the following:
 - (1) The commission.
 - (2) The member of the general assembly with respect to whom the report is made.
 - (3) The principal clerk of the house of representatives, if the legislator is a member of the Indiana house of representatives.
 - (4) The secretary of the senate, if the legislator is a member of the Indiana senate.

(d) A lobbyist shall file a report required by subsection (a) not later than seven (7) days after making the purchase or giving the gift.

(e) Not later than January 7, ~~a lobbyist who has filed a report under this section regarding a member of the general assembly listing the commission~~ shall provide to ~~that each~~ member of the general assembly a ~~cumulative report listing all purchases and gifts written compilation of all reports filed under subsection (c) relating to that member. The compilation must satisfy the following:~~

(1) ~~For that each member the compilation must list the following during for the immediately preceding calendar year:~~

(A) ~~Each purchase described in IC 2-2.1-3-2(a)(7).~~

(B) ~~Each gift described in IC 2-2.1-3-2(a)(8) itemized as follows:~~

(i) ~~Any gift of cash from the lobbyist.~~

(ii) ~~Any single gift from the lobbyist other than cash having a fair market value that exceeds one hundred dollars (\$100).~~

(iii) ~~Any gifts from the lobbyist other than cash having a fair market value in the aggregate that exceeds two hundred fifty dollars (\$250).~~

(2) ~~For each purchase or gift, the compilation must identify the name of the lobbyist making the purchase or giving the gift.~~

P.L.87-2004

[H.1449. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning family law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 31-37-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) It is a curfew violation for a child fifteen (15), sixteen (16), or seventeen (17) years of age to be in a public place:

- (1) between 1 a.m. and 5 a.m. on Saturday or Sunday;
- (2) after 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or
- (3) before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(b) A law enforcement officer may not detain a child or take a child into custody based on a violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

- (1) the child has violated this section; and**
- (2) there is no legal defense to the violation.**

SECTION 2. IC 31-37-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** It is a curfew violation for a child less than fifteen (15) years of age to be in a public place after 11 p.m. or before 5 a.m. on any day.

(b) A law enforcement officer may not detain a child or take a child into custody based on a violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

- (1) the child has violated this section; and**
- (2) there is no legal defense to the violation.**

SECTION 3. **An emergency is declared for this act.**

P.L.88-2004

[S.493. Approved March 9, 2004.]

AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-1-4-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: **Sec. 4. A board, a commission, a committee, or an agency regulating a profession or occupation under this title or under IC 15, IC 16, or IC 22 may grant an applicant a waiver from all or part of the continuing education requirement for a renewal period if the applicant was not able to fulfill the requirement due to a hardship that resulted from any of the following:**

- (1) Service in the armed forces of the United States during a substantial part of the renewal period.**
- (2) An incapacitating illness or injury.**
- (3) Other circumstances determined by the board or agency.**

SECTION 2. IC 25-1-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12. Renewal of Licenses Held by Individuals in Military Service

Sec. 1. This chapter applies to an individual who:

- (1) holds a license, certificate, registration, or permit under this title, IC 15, IC 16, or IC 22; and**
- (2) is called to active duty.**

Sec. 2. As used in this chapter, "active duty" means full-time service in the:

- (1) armed forces of the United States; or**
- (2) national guard;**

for a period that exceeds thirty (30) consecutive days in a calendar year.

Sec. 3. As used in this chapter, "armed forces of the United States" means the active or reserve components of:

- (1) the army;**
- (2) the navy;**
- (3) the air force;**
- (4) the coast guard;**
- (5) the marine corp; or**
- (6) the merchant marine.**

Sec. 4. As used in this chapter, "national guard" means:

- (1) the Indiana army national guard; or**
- (2) the Indiana air national guard.**

Sec. 5. As used in this chapter, "practitioner" means an individual who holds:

- (1) an unlimited license, certificate, or registration;**

- (2) a limited or probationary license, certificate, or registration;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) a provisional license;

issued under this title or IC 15, IC 16, or IC 22.

Sec. 6. (a) Notwithstanding any other law, a practitioner who is called to active duty out-of-state and meets the requirements of subsection (b) is entitled to an extension of time described in subsection (c) to:

- (1) renew; and
- (2) complete the continuing education required by;

the practitioner's license, certificate, registration, or permit.

(b) The practitioner must meet the following requirements to receive the extension of time provided under subsection (a):

- (1) On the date the practitioner enters active duty, the practitioner's license, certificate, registration, or permit may not be revoked, suspended, lapsed, or be the subject of a complaint under IC 25-1-7.

- (2) While the practitioner is out-of-state on active duty:

- (A) the practitioner's license, certificate, registration, or permit must expire; and

- (B) the practitioner must not have received the notice of expiration before the date the practitioner entered active duty.

- (3) The practitioner shall provide proof of out-of-state active duty by providing a copy of the practitioner's:

- (A) discharge; or

- (B) government movement orders;

to the agency issuing the practitioner's license, certificate, registration, or permit at the time the practitioner renews the practitioner's license, certificate, registration, or permit under this chapter.

(c) The extension of time provided under subsection (a) is equal to one hundred eighty (180) days after the date of the practitioner's discharge or release from active duty.

(d) The agency or board that issued the practitioner's license, certificate, registration, or permit may extend the period provided in subsection (c) if the agency or board determines that an illness,

an injury, or a disability related to the practitioner's active duty prevents the practitioner from renewing or completing the continuing education required for the practitioner's license, certificate, registration, or permit. However, the agency may not extend the period for longer than three hundred sixty-five (365) days after the date of the practitioner's discharge or release from active duty.

Sec. 7. Any late fees that may be assessed against a practitioner in connection with a renewal under this chapter are waived.

Sec. 8. This chapter may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of:

- (1) the armed forces of the United States; or
- (2) the national guard;

under federal law.

SECTION 3. [EFFECTIVE UPON PASSAGE] IC 25-1-12, as added by this act, applies to all individuals who:

- (1) hold a license, certificate, registration, or permit under IC 15, IC 16, IC 22, or IC 25; and
- (2) have been called to full-time service in the:
 - (A) armed forces of the United States (as defined in IC 25-1-12-3, as added by this act); or
 - (B) Indiana army or air national guard;

after September 11, 2001.

SECTION 4. An emergency is declared for this act.

P.L.89-2004

[H.1204. Approved March 17, 2004.]

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-7-33 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2004]:

Chapter 33. State Institution Reuse Authority

Sec. 1. As used in this chapter, "authority" refers to a state institution reuse authority established under this chapter.

Sec. 2. As used in this chapter, "property" refers to real property that was used by a state institution.

Sec. 3. As used in this chapter, "state institution" has the meaning set forth in IC 12-7-2-184.

Sec. 4. The legislative body of a municipality may adopt an ordinance to establish an authority to develop, manage, and plan for the use of property transferred by the state to the municipality.

Sec. 5. An ordinance adopted under this chapter must provide for the following:

(1) A board to govern the authority. The ordinance must provide for the following details regarding the board:

(A) The number of members.

(B) The manner of the appointment of the members.

(C) The term of office of board members. The term of office of a board member may not exceed four (4) years.

(D) The rules for the board's governance.

(2) The authority's and the board's powers and duties. The ordinance may not provide that the authority or the board has a power or duty that the municipality itself does not have.

Sec. 6. Subject to section 5 of this chapter, an authority and the authority's board have the powers and duties set forth in the ordinance that establishes the authority.

P.L.90-2004

[H.1055. Approved March 18, 2004.]

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.1-19-3, AS AMENDED BY P.L.224-2003, SECTION 196, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Subject to section 5 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is the qualified investment made by the taxpayer during the taxable year multiplied by twenty-five percent (25%).

(c) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to a lessee of property redeveloped or rehabilitated under section 2 of this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(d) An assignment under subsection (c) must be in writing and both the taxpayer and the lessee must report the assignment on their state tax return for the year in which the assignment is made, in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

(e) If a pass through entity is entitled to a credit under this chapter but does not have state and local tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

The credit provided under this subsection is in addition to a tax credit

to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

(f) A taxpayer that is otherwise entitled to a credit under this chapter for a taxable year may claim the credit regardless of whether any income tax incremental amount or gross retail incremental amount has been:

(1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or

(2) allocated to the district.

SECTION 2. IC 6-3.1-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) ~~Except as provided in subsection (b);~~ A taxpayer is not entitled to claim the credit provided by this chapter to the extent that the taxpayer substantially reduces or ceases its operations in Indiana in order to relocate them within the district.

~~(b) Notwithstanding subsection (a), a taxpayer's substantial reduction or cessation of operations in Indiana in order to relocate operations to a district does not make a taxpayer ineligible for a credit under this chapter if: (1)~~

Determinations under this section shall be made by the department. The department shall adopt a proposed order concerning a taxpayer's eligibility for the credit based on subsection (b) and the following criteria:

(1) A site-specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time or part-time employees, shall be considered a business operation.

(2) With respect to an operation located outside the district (referred to in this section as a "nondistrict operation"), any of the following that occurs during the twelve (12) months before the completion of the physical relocation of all or part of the activity described in subdivision (1) from the nondistrict operation to the district as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

- (A) A reduction in the average number of full-time or part-time employees of the lesser of one hundred (100) employees or twenty-five percent (25%) of all employees.
- (B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.
- (C) A twenty-five percent (25%) reduction in the average value of services provided.
- (D) A ten percent (10%) reduction in the average value of stored inventory.
- (E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a taxpayer that would otherwise be disqualified under subsection (a) is eligible for the credit provided by this chapter if the taxpayer meets at least one (1) of the following conditions:

(1) The taxpayer relocates all or part of its nondistrict operation for any of the following reasons:

- (A) The lease on property necessary for the nondistrict operation has been involuntarily lost through no fault of the taxpayer.
- (B) The space available at the location of the nondistrict operation cannot accommodate planned expansion needed by the taxpayer.
- (C) The building for the nondistrict operation has been certified as uninhabitable by a state or local building authority.
- (D) The building for the nondistrict operation has been totally destroyed through no fault of the taxpayer.
- (E) The renovation and construction costs at the location of the nondistrict operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the district, as certified by three (3) independent estimates.
- (F) The taxpayer had existing operations in the district and ~~(2)~~ the **nondistrict** operations relocated to the district are an expansion of the taxpayer's operations in the district.

A taxpayer is eligible for benefits and incentives under clause (C) or (D) only if renovation and construction costs at the location of the nondistrict operation are more than one and

one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the district. These costs must be certified by three (3) independent estimates.

(2) The taxpayer has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nondistrict operation without the consent of the employees.

(c) The department shall cause to be delivered to the taxpayer and to any person who testified before the department in favor of disqualification of the taxpayer a copy of the department's proposed order. The taxpayer and these persons shall be considered parties for purposes of this section.

(d) A party who wishes to appeal the proposed order of the department shall, within ten (10) days after the party's receipt of the proposed order, file written objections with the department. The department shall immediately forward copies of the objections to the director of the budget agency and the director of the department of commerce. A hearing panel composed of the commissioner of the department or the commissioner's designee, the director of the budget agency or the director's designee, and the director of the department of commerce or the director's designee shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the hearing panel a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the hearing panel. The hearing panel may hear additional evidence or remand the action to the department with instructions appropriate to the expeditious and proper disposition of the action. The hearing panel may adopt the proposed order of the department, may amend or modify the proposed order, or may make such order or determination as is proper on the record. The affirmative votes of at least two (2) members of the hearing panel are required for the hearing panel to take action on any measure. The taxpayer may appeal the decision of the hearing panel to the tax court in the same manner that a final determination of the department may be appealed under IC 33-3-5.

(e) If no objections are filed, the department may adopt the proposed order without oral argument.

(~~c~~) (f) A determination that a taxpayer is not entitled to the credit provided by this chapter as a result of a substantial reduction or cessation of operations applies to credits that would otherwise arise in the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. ~~Determinations under this section shall be made by the department of state revenue.~~

SECTION 3. IC 6-3.5-7-22.5, AS AMENDED BY P.L.224-2003, SECTION 258, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22.5. (a) This section applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500).

(b) In addition to the rates permitted by section 5 of this chapter, the county council may impose the county economic development income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (c).

(c) In order to impose the county economic development income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county economic development income tax are needed to pay the costs of:

- (1) financing, **constructing, acquiring, renovating, and equipping the county courthouse**, and **financing and** renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions, including the repayment of bonds issued, or leases entered into for **constructing, acquiring, renovating, and equipping the county courthouse and for** renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions;
- (2) financing constructing, acquiring, renovating, and equipping buildings for a volunteer fire department (as defined in IC 36-8-12-2) that provides services in any part of the county; and
- (3) financing constructing, acquiring, and renovating firefighting apparatus or other related equipment for a volunteer fire department (as defined in IC 36-8-12-2) that provides services in any part of the county.

The revenues from the county economic development income tax

imposed under this section may not be used to pay the costs of financing constructing, acquiring, renovating, and equipping the county courthouse.

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater than is necessary to pay for the purposes described in this section.

(e) The county treasurer shall establish a county option tax revenue fund to be used only for the purposes described in this section. County economic development income tax revenues derived from the tax rate imposed under this section shall be deposited in the county option tax revenue fund before making a certified distribution under section 11 of this chapter.

(f) County economic development income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

(g) A county described in subsection (a) possesses:

- (1) unique fiscal challenges to finance the operations of county government due to the county's ongoing obligation to repay amounts received by the county due to an overpayment of the county's certified distribution under IC 6-3.5-1.1-9 for a prior year; and
- (2) unique capital financing needs related to the purposes described in subsection (c).

SECTION 4. IC 36-7-13-2.4, AS AMENDED BY P.L.178-2002, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.4. Except as provided in section 10.7(c) of this chapter, as used in this chapter, "gross retail base period amount" means:

- (1) the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a district during the full state fiscal year that precedes the date on which:

(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or
 (B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter; ~~or~~

(2) an amount equal to:

(A) the aggregate amount of state gross retail and use taxes remitted:

(i) under IC 6-2.5 by the businesses operating in the territory comprising a district; and

(ii) during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by

(B) twelve (12);

in the case of a district that is described in section 12(c) of this chapter; ~~or~~

(3) an amount equal to the amount determined under subdivision (1) or (2); plus:

(A) the aggregate amount of state gross retail and use taxes remitted:

(i) under IC 6-2.5 by the businesses operating in the territory added to the district; and

(ii) during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by

(B) twelve (12);

in the case of a district modified under section 12.5 of this chapter.

SECTION 5. IC 36-7-13-3.2, AS AMENDED BY P.L.178-2002, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.2. Except as provided in section 10.7(d) of this chapter, as used in this chapter, "income tax base period amount" means:

(1) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district for the state fiscal year that precedes the date on which:

(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or
 (B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter; ~~or~~

(2) an amount equal to:

(A) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by

(B) twelve (12);

in the case of a district that is described in section 12(c) of this chapter; ~~or~~

(3) an amount equal to the amount determined under subdivision (1) or (2); plus:

(A) the aggregate amount of state and local income taxes paid by employees employed in the territory added to the district with respect to wages and salary earned for work in the modified district during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by

(B) twelve (12);

in the case of a district modified under section 12.5 of this chapter.

SECTION 6. IC 36-7-13-10.5, AS AMENDED BY P.L.178-2002, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) This section applies only to a county that meets the following conditions:

(1) The county's annual rate of unemployment has been above the average annual statewide rate of unemployment during at least three (3) of the preceding five (5) years.

(2) The median income of the county has:

(A) declined over the preceding ten (10) years; or

(B) has grown at a lower rate than the average annual

statewide growth in median income during at least three (3) of the preceding five (5) years.

(3) The population of the county (as determined by the legislative body of the county) has declined over the preceding ten (10) years.

(b) Except as provided in section 10.7 of this chapter, in a county described in subsection (a), the legislative body of the county may adopt an ordinance designating an unincorporated part or unincorporated parts of the county as a district, and the legislative body of a municipality located within the county may adopt an ordinance designating a part or parts of the municipality as a district, if the legislative body finds all of the following:

(1) The area to be designated as a district contains a building or buildings that:

(A) have a total of at least fifty thousand (50,000) square feet of usable interior floor space; and

(B) are vacant or will become vacant due to the relocation of the employer or the cessation of operations on the site by the employer.

(2) Significantly fewer persons are employed in the area to be designated as a district than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment in the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination or remediation.

(c) A legislative body adopting an ordinance under subsection (b) shall designate the duration of the district. However, ~~the duration may not exceed a district must terminate not later than~~ fifteen (15) years ~~from the time of designation.~~ **after the income tax incremental amount or gross retail incremental amount is first allocated to the district.**

(d) Except as provided in section 10.7 of this chapter, upon adoption of an ordinance designating a district, the legislative body shall submit

the ordinance to the budget committee for review and recommendation to the budget agency. **If the budget agency fails to take action on an ordinance designating a district within one hundred twenty (120) days after the date that the ordinance is submitted to the budget committee, the designation of the district by the ordinance is considered approved.**

(e) Except as provided in section 10.7 of this chapter, when considering the designation of a district by an ordinance adopted under this section, the budget committee and the budget agency must make the following findings before approving the designation of the district:

- (1) The area to be designated as a district meets the conditions necessary for the designation as a district.
- (2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(f) Except as provided in section 10.7 of this chapter, the income tax incremental amount and the gross retail incremental amount may not be allocated to the district until ~~the budget agency approves~~ the designation of the district by the local ordinance **is approved under this section.**

SECTION 7. IC 36-7-13-12, AS AMENDED BY P.L.224-2003, SECTION 238, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it makes the findings described in subsection (b), (c), (d), or (e). In a county described in subsection (c), an advisory commission may designate more than one (1) district under subsection (c).

(b) For an area located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:

- (A) with at least one million (1,000,000) square feet of usable interior floor space; and
 - (B) that is or are vacant or will become vacant due to the relocation of an employer.
 - (2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.
 - (3) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.
 - (4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars (\$100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).
 - (5) The area is located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).
- (c) For a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000), an advisory commission may adopt a resolution designating not more than two (2) areas as districts. An advisory commission may designate an area as a district only after finding the following:
- (1) The area meets either of the following conditions:
 - (A) The area contains a building with at least seven hundred ninety thousand (790,000) square feet, and at least eight hundred (800) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.
 - (B) The area contains a building with at least ~~four hundred forty thousand (440,000)~~ **three hundred eighty-six thousand (386,000)** square feet, and at least four hundred (400) fewer people are employed in the area than were employed in the

area during the year that is fifteen (15) years previous to the current year.

- (2) The area is located in or is adjacent to an industrial park.
- (3) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.

- (4) The area is located in a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).

(d) For an area located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:
 - (A) with at least one million five hundred thousand (1,500,000) square feet of usable interior floor space; and
 - (B) that is or are vacant or will become vacant.
- (2) At least eighteen thousand (18,000) fewer persons are employed in the area at the time of application than were employed in the area before the time of application.
- (3) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.

- (4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars (\$100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

- (5) The area is located in a county having a population of more

than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(e) For an area located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:
 - (A) with at least eight hundred thousand (800,000) gross square feet; and
 - (B) having leasable floor space, at least fifty percent (50%) of which is or will become vacant.
- (2) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings as evidenced by a decline of at least seventy-five percent (75%) in their assessed valuation during the preceding ten (10) years.
 - (B) Transportation or access problems.
 - (C) Environmental contamination.
- (3) At least four hundred (400) fewer persons are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.
- (4) The area has been designated as an economic development target area under IC 6-1.1-12.1-7.
- (5) The unit has appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subdivision (2).
- (6) The area is located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The advisory commission, or the county or municipal legislative body, in the case of a district designated under section 10.5 of this chapter, shall designate the duration of the district. ~~but the duration may not exceed~~ **However, a district must terminate not later than fifteen (15) years (at the time of designation): after the income tax incremental amount or gross retail incremental amount is first allocated to the district.**

(g) Upon adoption of a resolution designating a district, the advisory

commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. **If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.**

(h) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(i) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until ~~the budget agency approves~~ **the resolution is approved under this section.**

SECTION 8. IC 36-7-13-12.1, AS ADDED BY P.L.224-2003, SECTION 239, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12.1. (a) If the executive of a city described in section 10.1(a) of this chapter has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:

(1) That the redevelopment of the area in the district will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the area; or

(C) retain or expand a significant business enterprise within the area.

(2) That there are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or ineffective utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

- (E) Topographical obstacles to redevelopment.
- (F) Environmental contamination.
- (G) Lack of development or cessation of growth.
- (H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.
- (I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the city may make expenditures for:

- (1) the acquisition of land;
- (2) interests in land;
- (3) site improvements;
- (4) infrastructure improvements;
- (5) buildings;
- (6) structures;
- (7) rehabilitation, renovation, and enlargement of buildings and structures;
- (8) machinery;
- (9) equipment;
- (10) furnishings;
- (11) facilities;
- (12) administration expenses associated with such a project;
- (13) operating expenses; or
- (14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the city described in section 10.1(a) of this chapter has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. ~~but the duration may not exceed~~ **However, a district must terminate not later than** fifteen (15) years ~~(at the time of designation).~~ **after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.**

(e) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for

review and recommendation to the budget agency. **If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.**

(f) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(g) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the ~~budget agency approves the~~ **resolution is approved under this section.**

SECTION 9. IC 36-7-13-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12.5. (a) An advisory commission on industrial development that designates a district under section 12 or 12.1 of this chapter or the legislative body of a county or municipality that adopts an ordinance designating a district under section 10.5 of this chapter may petition for permission to modify the boundaries of the district. The petition must be submitted to the budget committee for review and recommendation to the budget agency.**

(b) When considering a petition submitted under subsection (a), the budget committee and the budget agency must make the following findings:

(1) The area to be added to the district, if any, meets the conditions necessary for designation as a district under section 10.5, 12, or 12.1 of this chapter.

(2) The proposed modification of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(c) Upon approving a petition submitted under subsection (a), the budget agency shall certify the district's modified boundaries to the department of state revenue.

SECTION 10. IC 36-7-13-13, AS AMENDED BY P.L.224-2003, SECTION 240, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) If an advisory commission on industrial development designates a district under section 12 or 12.1 of this chapter or if the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall send a certified copy of the resolution or ordinance designating the district to the department of state revenue by certified mail and shall include with the resolution a complete list of the following:

- (1) Employers in the district.
- (2) Street names and the range of street numbers of each street in the district.

(b) The advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall update the list:

- (1) before July 1 of each year; or
- (2) **within fifteen (15) days after the date that the budget agency approves a petition to modify the boundaries of the district under section 12.5 of this chapter.**

~~(b)~~ (c) Not later than sixty (60) days after receiving a copy of the resolution or ordinance designating a district, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

(d) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the gross retail base period amount and the income tax base period amount for a district modified under section 12.5 of this chapter.

SECTION 11. IC 36-7-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

(b) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this

chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

SECTION 12. [EFFECTIVE JULY 1, 2004] (a) An advisory commission or a legislative body that designated a community revitalization enhancement district before July 1, 2004, may adopt a resolution before July 1, 2005, to amend the duration of the district under IC 36-7-13-10.5, IC 36-7-13-12, or IC 36-7-13-12.1, all as amended by this act, if no income tax incremental amounts or gross retail incremental amounts have been:

- (1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or
- (2) allocated to the district.

(b) If an advisory commission or a legislative body adopts a resolution under this SECTION to amend the duration of the district, the advisory commission or legislative body shall immediately send a certified copy of the resolution to the budget agency and the department of state revenue by certified mail.

(c) This SECTION expires January 1, 2006.

SECTION 13. [EFFECTIVE UPON PASSAGE] (a) A religious institution may file an application under IC 6-1.1-11 before May 11, 2004, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001 and 2002 if:

- (1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2001 or 2002;
- (2) the religious institution acquired the real property in 1999; and
- (3) the real property was exempt from property taxes for property taxes first due and payable in 2000.

(b) If a religious institution files an exemption application under subsection (a):

- (1) the exemption application is subject to review and action by:
 - (A) the county property tax assessment board of appeals; and
 - (B) the department of local government finance; and
- (2) the exemption determination made under subdivision (1)

is subject to appeal;
in the same manner that would have applied if an application for exemption had been timely filed in 2000 and 2001.

(c) If an exemption application filed under subsection (a) is approved, the religious institution may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for any payment of property taxes first due and payable in 2001 and for any payment of property taxes first due and payable in 2002, including any paid interest and penalties, with respect to the exempt property.

(d) Upon receiving a claim for a refund filed under subsection (c), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. No interest is payable on the refund.

(e) This SECTION expires January 1, 2005.

SECTION 14. [EFFECTIVE UPON PASSAGE] (a) A religious institution may file an application under IC 6-1.1-11 before August 1, 2004, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001, 2002, 2003, and 2004 if:

- (1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2001, 2002, 2003, or 2004;
- (2) the religious institution acquired the real property in 2000 from another religious institution;
- (3) the real property was exempt from property taxes for property taxes first due and payable in 2000; and
- (4) the religious institution:
 - (A) acquired the real property under a contract with a religious institution;
 - (B) has occupied the real property for each of the years described in subdivision (1); and
 - (C) has used the real property for its religious purposes in each of the years described in subdivision (1).

(b) If a religious institution files an exemption application under

subsection (a):

(1) the exemption application is subject to review and action by:

(A) the county property tax assessment board of appeals; and

(B) the department of local government finance; and

(2) the exemption determination made under subdivision (1) is subject to appeal;

in the same manner that would have applied if an application for exemption had been timely filed in 2000, 2001, 2002, and 2003.

(c) The religious institution may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for any payment of property taxes first due and payable in 2001, 2002, 2003, and 2004, including any paid interest and penalties, with respect to the exempt property if:

(1) an exemption application filed under subsection (a) is approved; and

(2) the religious institution has paid any property taxes in 2001, 2002, 2003, and 2004 attributable to the exempt property.

(d) Upon receiving a claim for a refund filed under subsection (c), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. No interest is payable on the refund.

(e) If:

(1) the religious institution incurred property tax liabilities in 2001, 2002, 2003, and 2004 because of the failure to properly apply for a property tax exemption for the religious institution's real property described in subsection (a); and

(2) an exemption application filed under subsection (a) is approved;

the county treasurer of the county in which the real property is located shall forgive the property taxes, penalties, and interest charged to the religious institution for the exempt property in 2001, 2002, 2003, and 2004.

(f) This SECTION expires January 1, 2005.

SECTION 15. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) As used in this SECTION, "taxpayer" means a nonprofit corporation that is an owner of land and improvements:

(1) that were owned, occupied, and used by the taxpayer to provide youths with the opportunity to play supervised and organized baseball or softball, or both, against other youths during the period preceding the assessment date in 2002 and continuing through the date that this SECTION is effective;
(2) for which a property tax liability was imposed for property taxes first due and payable in 2001, 2002, and 2003 that exceeded eighteen thousand dollars (\$18,000), in the aggregate, and was paid in 2003;

(3) that would have qualified for an exemption under IC 6-1.1-10 from property taxes first due and payable in 2003 if the owner had complied with the filing requirements for the exemption in a timely manner; and

(4) that have been granted an exemption under IC 6-1.1-10 from property taxes first due and payable in 2004.

(c) The land and improvements described in subsection (b) are exempt under IC 6-1.1-10-16 from property taxes first due and payable in 2003, notwithstanding that the taxpayer failed to make a timely application for the exemption on or before May 15, 2002.

(d) The taxpayer may file claims with the county auditor for a refund for the amounts paid toward property taxes on the land and improvements described in subsection (b) that were billed to the taxpayer for property taxes first due and payable in 2001, 2002, and 2003. The claim must be filed as set forth in IC 6-1.1-26-1(1) through IC 6-1.1-26-1(3). The claims must present sufficient facts for the county auditor to determine whether the claimant is a person that meets the qualifications described in subsection (b) and the amount that should be refunded to the taxpayer.

(e) Upon receiving a claim filed under this SECTION, the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the county auditor shall submit the claim under IC 6-1.1-26-3 to the county board of commissioners for review. The only grounds for disallowing the claim under IC 6-1.1-26-4 are that the claimant is not a person that meets the qualifications described in subsection

(b) or that the amount claimed is not the amount due to the taxpayer. If the claim is allowed, the county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this SECTION. The amount of the refund must equal the amount of the claim allowed. Notwithstanding IC 6-1.1-26-5, no interest is payable on the refund.

(f) This SECTION expires December 31, 2006.

SECTION 16. [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)] (a) This SECTION applies notwithstanding the following:

IC 6-1.1-3-7.5

IC 6-1.1-10-10

IC 6-1.1-10-13

IC 6-1.1-10-31.1

IC 6-1.1-11

IC 6-1.1-12.1-5.4

50 IAC 4.2-11

50 IAC 4.2-12-1

50 IAC 10-3

50 IAC 16.

(b) As used in this SECTION, "taxpayer" means a taxpayer in a county containing a consolidated city that filed:

(1) an original personal property tax return under IC 6-1.1-3 for the March 1, 2001, assessment date using a consolidated return, Form 103-C; and

(2) before March 1, 2003, a Form 133 petition for correction of an error with respect to the assessed value of the taxpayer's personal property on the March 1, 2001, assessment date.

(c) Before January 1, 2005, a taxpayer may file an amended personal property tax return for the March 1, 2001, assessment date.

(d) A taxpayer that files an amended personal property tax return under subsection (c) is entitled to the following exemptions for the March 1, 2001, assessment date:

(1) An exemption for an industrial waste control facility under IC 6-1.1-10-9.

(2) An exemption for an air pollution control system under IC 6-1.1-10-12.

(3) An exemption for tangible personal property under IC 6-1.1-10-29, as in effect on March 1, 2001.

(4) An exemption for tangible personal property under IC 6-1.1-10-29.3.

(5) An exemption for tangible personal property under IC 6-1.1-10-30.

(e) The amount of an exemption described in subsection (d)(1) or (d)(2) is based on the total cost of the industrial waste control facility or air pollution control system reported by the taxpayer on a Form 103-P that must be filed with the amended personal property tax return filed under subsection (c).

(f) The total amount of the exemptions described in subsection (d)(3) through (d)(5) is:

- (1) the total cost of the taxpayer's finished goods reported on Schedule B, line 3, of the taxpayer's amended personal property tax return filed under subsection (c); multiplied by
- (2) the ratio reported by the taxpayer on the Form 103-W filed with the taxpayer's amended personal property tax return.

(g) Before January 1, 2005, a taxpayer may file with the county auditor an application for a deduction from assessed valuation for new manufacturing equipment in an economic revitalization area for the March 1, 2001, assessment date. The taxpayer shall include all necessary attachments to the deduction application.

(h) If a taxpayer files an amended personal property tax return under subsection (c) and a deduction application described in subsection (g), the taxpayer is entitled to a credit in the amount of the taxes paid by the taxpayer on the remainder of:

- (1) the assessed value reported on the taxpayer's original personal property tax return for the March 1, 2001, assessment date; minus
- (2) the assessed value reported on the taxpayer's amended personal property tax return for the March 1, 2001, assessment date filed under subsection (c).

For purposes of calculating the credit allowed under this subsection, the assessed value reported on the taxpayer's amended personal property tax return filed under subsection (c) shall be reduced by the amount of the deduction claimed on the deduction application filed under subsection (g).

(i) The county auditor shall reduce the amount of the credit to which a taxpayer is entitled under subsection (h) by the amount of any property tax refunds paid:

(1) to the taxpayer for personal property taxes based on the March 1, 2001, assessment date; and

(2) before the date the taxpayer files an amended personal property tax return under subsection (c).

(j) Notwithstanding IC 6-1.1-26, the county auditor shall apply the full amount of the credit allowed under subsection (h) against the taxpayer's property tax liability for property taxes first due and payable in 2004. If the full amount of the credit allowed under subsection (h) exceeds the taxpayer's property tax liability for property taxes first due and payable in 2004, the county auditor shall apply the amount of the excess credit against the taxpayer's property tax liability in each succeeding year until the credit is exhausted. However, the county auditor may refund the remaining credit amount at any time before the credit is exhausted.

(k) A taxpayer is not required to file a separate application for the credit allowed under subsection (h).

(l) This SECTION expires January 1, 2007.

SECTION 17. [EFFECTIVE JULY 1, 2004] IC 6-3.1-19-3, as amended by this act, applies only to taxable years beginning after December 31, 2004.

SECTION 18. An emergency is declared for this act.

P.L.91-2004

[H.1070. Approved March 18, 2004.]

AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.3-7-1, AS AMENDED BY SEA 263-2004, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: Sec. 1. (a) This section does not apply to:

- (1) members of the general assembly; or
- (2) employees covered by section 3 of this chapter.

(b) An employee of the state or of a participating political subdivision who:

- (1) became a full-time employee of the state or of a participating political subdivision in a covered position; and
- (2) had not become a member of the fund;

before April 1, 1988, shall on April 1, 1988, become a member of the fund unless the employee is excluded from membership under section 2 of this chapter.

(c) Any individual who becomes a full-time employee of the state or of a participating political subdivision in a covered position after March 31, 1988, becomes a member of the fund on the date the individual's employment begins unless the individual is excluded from membership under section 2 of this chapter.

(d) For the purposes of this section, "employees of the state" includes:

- (1) employees of the judicial circuits whose compensation is paid from state funds;
- (2) elected and appointed state officers;
- (3) prosecuting attorneys and deputy prosecuting attorneys of the judicial circuits, whose compensation is paid in whole or in part from state funds, including participants in the prosecuting attorneys retirement fund established under IC 33-39-7;
- (4) employees in the classified service;
- (5) employees of any state department, institution, board, commission, office, agency, court, or division of state government receiving state appropriations and having the authority to certify payrolls from appropriations or from a trust fund held by the treasurer of state or by any department;
- (6) employees of any state agency which is a body politic and corporate;
- (7) employees of the board of trustees of the public employees' retirement fund;
- (8) persons who:
 - (A) are employed by the state;
 - (B) have been classified as federal employees by the Secretary

of Agriculture of the United States; and

(C) are excluded from coverage as federal employees by the federal Social Security program under 42 U.S.C. 410; ~~and~~

(9) the directors and employees of county offices of family and children; **and**

(10) employees of the center for agricultural science and heritage (the barn).

SECTION 2. IC 15-1.5-10.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The center for agricultural science and heritage (the barn) is established.

(b) **The barn:**

(1) is a body corporate and politic separate from the state;

(2) is not a state agency; and

(3) performs essential governmental functions.

(c) The following are the purposes for which the barn is established:

(1) To educate the public concerning the past, present, and future of American agriculture and rural life.

(2) To educate youth and the general public about American agriculture and food systems.

(3) To provide educational programming for youth that complements school curricula, both onsite and in the classroom.

(4) To create a synergy between Indiana's institutions of education and agriculture related industries.

(5) To generate economic vitality, convention activity, and tourism activity for Indiana.

(6) To become a center for agricultural business and thinking, a clearinghouse of agricultural information, a resource center for educators and the public, and a repository for agricultural artifacts and history.

(7) To create a central, prominent partner with whom agricultural organizations can launch, collaborate on, and coordinate programs.

(8) To position Indiana as the recognized agricultural center of the nation.

SECTION 3. IC 15-1.5-10.5-8.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 8.3. (a) The board of trustees shall:**

(1) adopt:

(A) rules under IC 4-22-2; or

(B) a policy;

establishing a code of ethics for employees of the board of trustees; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted by rule or policy under this section must be consistent with state law and approved by the governor.

SECTION 4. [EFFECTIVE JULY 1, 2004] (a) The center for agricultural science and heritage established by IC 15-1.5-10.5-3, a body corporate and politic under IC 15-1.5-10.5-3, as amended by this act, is a continuation of the center for agricultural science and heritage as it existed before July 1, 2004.

(b) The assets, appropriations, fund balances, and liabilities of the center for agricultural science and heritage are not affected by the conversion of the center for agricultural science and heritage to an independent body corporate and politic under IC 15-1.5-10.5-3, as amended by this act.

(c) The individuals serving as members of the board of trustees of the center for agricultural science and heritage on June 30, 2004, remain members of the board of trustees notwithstanding the amendment of IC 15-1.5-10.5-3 by this act.

(d) This SECTION expires July 1, 2005.

P.L.92-2004

[H.1102. Approved March 18, 2004.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-23-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. It is unlawful for a

successful bidder to enter into a subcontract with any other person involving the performance of any part of any work upon which the bidder may be engaged for the department in an amount in excess of ~~one three~~ hundred thousand dollars (~~\$100,000~~) (**\$300,000**) unless the subcontractor has been properly qualified under the terms of this chapter for the work sublet to the subcontractor. However, the department may reduce this amount based on the subcontractor's performance with the department and others. The prequalification requirements of this section do not apply to the following:

(1) Professional services.

(2) Hauling materials or supplies to or from a job site.

SECTION 2. [EFFECTIVE JULY 1, 2004] IC 8-23-10-4, as amended by this act, applies only to subcontracts entered into after June 30, 2004.

P.L.93-2004

[H.1266. Approved March 18, 2004.]

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-13-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 17. Internet Purchasing Sites

Sec. 1. As used in this chapter, "department" refers to the Indiana department of administration established by IC 4-13-1-2.

Sec. 2. As used in this chapter, "Internet purchasing site" means an open and interactive electronic environment that is:

(1) designed to facilitate the purchase and sale of supplies conducted under IC 5-22;

(2) approved and managed by the department; and

(3) linked to the electronic gateway administered by the

intelenet commission established by IC 5-21-2-1.

Sec. 3. As used in this chapter, "purchasing agency" has the meaning set forth in IC 5-22-2-25.

Sec. 4. The department may adopt rules under IC 4-22-2 to establish the following:

(1) Procedures for the use of Internet purchasing sites to facilitate the purchase of supplies or sales conducted under IC 5-22 by a state agency. The rules may permit use of an Internet purchasing site to facilitate purchases of supplies and sales conducted by any of the following if considered beneficial by the department:

(A) A purchasing agency other than a state agency.

(B) A cooperative purchasing organization described in IC 5-22-4-7.

(C) The public.

(2) User fees payable by either of the following:

(A) A bidder using an Internet purchasing site.

(B) Entities other than state agencies that use the Internet purchasing site permitted under subdivision (1).

(3) The technical requirements for operation of an Internet purchasing site.

(4) Procedures requiring the proper officers to maintain adequate documentation of transactions performed through the Internet purchasing site so that the officers may be audited as provided by law.

(5) Procedures necessary for the operation of Internet purchasing sites.

Sec. 5. An Internet purchasing site must do all the following:

(1) Provide an authorized user with the ability to issue an invitation for bids for supplies electronically.

(2) Protect the content of an electronic offer to the extent required under IC 5-22.

(3) Provide an authorized user with a secure, accurate report of all information contained in electronic offers made through the site on or before the deadline established by the authorized user.

(4) Comply with IC 5-22.

Sec. 6. The department shall provide the equipment and information technology services necessary to operate the Internet

purchasing sites required under this chapter.

Sec. 7. The department shall provide authorized users and the public with access to Internet purchasing sites by links to the electronic gateway administered by the intelenet commission.

Sec. 8. The following shall cooperate with the department to implement this chapter:

- (1) The intelenet commission.
- (2) The state board of accounts.
- (3) The attorney general.
- (4) The auditor of state.

SECTION 2. IC 5-21-1-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. "Internet purchasing site" has the meaning set forth in IC 4-13-17-2.**

SECTION 3. IC 5-21-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.** The commission shall design, develop, contract for, and manage statewide, integrated telecommunication networks and information technology services that economically, efficiently, and effectively meet the needs of authorized users. When technically possible and cost efficient, the system shall use facilities of the certificated local exchange telephone companies. The intelenet system may include the following:

- (1) A statewide voice network.
- (2) Voice connections into each county in the state.
- (3) Interfacing with out-of-state voice facilities.
- (4) Lines to connect computers and terminals.
- (5) High speed data switching capacity.
- (6) Data connections into each county in the state.
- (7) A statewide broadcast network for video signals.
- (8) Two-way video conferencing capacity.
- (9) **Internet purchasing sites.**
- (10) Other telecommunication and information technology services approved by the commission.

The commission shall provide the intelenet system and accessIndiana solely to carry out or to facilitate the carrying out of the essential public, educational, and governmental functions of authorized users.

SECTION 4. IC 5-22-2-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: **Sec. 13.5. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.**

SECTION 5. IC 5-22-2-13.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.7. "Internet purchasing site" means an open and interactive electronic environment that is designed to facilitate the purchase of supplies by means of the Internet. The term includes an Internet purchasing site developed under IC 4-13-17.**

SECTION 6. IC 5-22-2-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28.5. "Reverse auction" means a method of purchasing in which offerors submit offers in an open and interactive environment through the Internet.**

SECTION 7. IC 5-22-3-4, AS AMENDED BY P.L.1-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4. (a) Whenever this article requires that notice or other material be sent by mail, the material may be sent by electronic means as stated in any of the following:**

- (1) Rules adopted by the governmental body.
- (2) Written policies of the purchasing agency.
- (3) A solicitation.

(b) Rules, written policies, and solicitation statements described in subsection (a):

- (1) are subject to this article; and
- (2) must provide that the transmission of information is at least as efficient and secure as sending the material by mail.

(c) A governmental body may receive electronic offers if both of the following apply:

- (1) The solicitation indicates the procedure for transmitting the electronic offer to the governmental body.
- (2) The governmental body receives the offer on a fax machine, by electronic mail, or by means of another electronic system that has a security feature that protects the content of an electronic offer with the same degree of protection as the content of an offer that is not transmitted by electronic means.

(d) A governmental body conducting a reverse auction must receive electronic offers for supplies through an Internet purchasing site.

SECTION 8. IC 5-22-7-5, AS AMENDED BY P.L.31-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The purchasing agency shall give notice of the invitation for bids in the manner required by IC 5-3-1.

(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the electronic gateway administered by the intelnet commission.

(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through:

(1) the electronic gateway administered by the intelnet commission as determined by the commission; or

(2) any other electronic means available to the political subdivision.

SECTION 9. IC 5-22-7.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 7.5. Online Reverse Auctions

Sec. 1. (a) A purchasing agency may conduct a reverse auction for the purchase of supplies by using an Internet purchasing site to:

(1) issue an invitation for bids; and

(2) receive bids.

(b) Except as provided in this chapter, a purchasing agency and a bidder must comply with the requirements of this article when participating in a reverse auction.

Sec. 2. (a) Before conducting a reverse auction, the purchasing agency must adopt written policies that do the following:

(1) Establish procedures for all the following:

(A) Transmitting notices, solicitations, and specifications.

(B) Receiving offers.

(C) Making payments.

(D) Protecting:

(i) the identity of an offeror; and

(ii) the amount of an offer until the time fixed for the opening of offers.

(E) For a reverse auction, providing for the display of the amount of each offer previously submitted for public viewing.

(F) Establishing the deadline by which offers must be received and will be considered to be open and available for public inspection.

(G) Establishing the procedure for the opening of offers.

(2) Require the purchasing agency to maintain adequate documentation regarding reverse auctions so that the transactions may be audited as provided by law.

(b) Written policies that comply with rules for an Internet public purchasing site adopted by the Indiana department of administration under IC 4-13-17-4 satisfy the requirements of this section.

Sec. 3. If a purchasing agency issues an invitation for bids using a reverse auction conducted through an Internet purchasing site under this chapter, only bids made:

(1) in accordance with the policies described in section 2 of this chapter; and

(2) through the Internet purchasing site;

may be evaluated by the purchasing entity at the close of bidding.

Sec. 4. When used for a reverse auction, an Internet purchasing site must do the following:

(1) Provide information that the purchasing entity considers necessary or beneficial to potential bidders.

(2) Display the amount of all bids previously submitted regarding the reverse auction for public viewing.

(3) Conceal information that identifies a bidder.

(4) Comply with this article.

Sec. 5. The purchasing agency may charge a bidder in a reverse auction a fee set in the written policies adopted under section 2 of this chapter.

Sec. 6. For purposes of IC 5-22-7-6, a bid made through an Internet purchasing site is considered to be opened when a computer generated record of the information contained in all bids for a proposed purchase that were received by the site not later than the posted bid deadline is reviewed publicly by the purchasing agency in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids.

Sec. 7. IC 5-22-16-6(a)(2) does not apply to a reverse auction.

Sec. 8. (a) As used in this section, "construction equipment" means equipment used in construction work, the unit price of which is greater than ten thousand dollars (\$10,000).

(b) A purchasing agency may not use a reverse auction to purchase construction equipment.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) The definitions set forth in IC 4-13-17, as added by this act, apply throughout this SECTION.

(b) Notwithstanding IC 4-13-17, as added by this act, the Indiana department of administration shall:

(1) carry out the duties imposed upon it under IC 4-13-17, as added by this act, under interim written guidelines approved by the department; and

(2) provide access to Internet purchasing sites for the purposes of IC 4-13-17, as added by this act, before January 1, 2005.

(c) This SECTION expires January 1, 2005.

SECTION 11. An emergency is declared for this act.

P.L.94-2004

[H.1285. Approved March 18, 2004.]

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. [EFFECTIVE UPON PASSAGE] (a) The pension management oversight commission established by IC 2-5-12-1 shall examine and make recommendations regarding the feasibility of authorizing members of the retirement funds administered by the board of trustees of the public employees' retirement fund to withdraw, before retirement, a member's contributions when the member demonstrates an immediate and great financial need.

(b) The commission shall operate under the direction of the

legislative council and issue a final report when directed to do so by the council.

(c) This SECTION expires December 31, 2005.

SECTION 2. IC 2-3.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2003 (RETROACTIVE)]:
Sec. 4. (a) The PERF board shall administer the system, which may be commingled with the PERF fund for investment purposes.

(b) The PERF board shall:

- (1) determine eligibility for and make payments of benefits under this chapter, IC 2-3.5-4, and IC 2-3.5-5;
- (2) in accordance with the powers and duties granted in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the system; and
- (3) provide by rule for the implementation of this chapter, IC 2-3.5-4, and IC 2-3.5-5.

(c) A determination by the PERF board may be appealed under IC 4-21.5.

(d) The powers and duties of:

- (1) the director and the actuary of the PERF board;
- (2) the treasurer of state;
- (3) the attorney general; and
- (4) the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The PERF board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

(f) Legislators' retirement system records of individual participants and participants' information are confidential, except for the name and years of service of a retirement system participant.

SECTION 3. IC 5-10-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2003 (RETROACTIVE)]:
Sec. 3. **(a)** The management administration of the retirement plan created by this chapter is hereby vested in the board of trustees of the public employees' retirement fund.

(b) Records of individual participants in the retirement plan created by this chapter and participants' information are confidential, except for the name and years of service of a

retirement plan participant.

SECTION 4. IC 33-13-8-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2003 (RETROACTIVE)]:

Sec. 25. (a) The board of trustees of the public employees' retirement fund shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall:

(1) determine eligibility for and make payments of benefits under IC 33-13-9.1 and IC 33-13-10.1;

(2) in accordance with the powers and duties granted it in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund; and

(3) provide by rule for the implementation of this chapter and IC 33-13-9.1 and IC 33-13-10.1.

(c) A determination by the board may be appealed under the procedures in IC 4-21.5.

(d) The powers and duties of the director and the actuary of the board, the treasurer of state, the attorney general, and the auditor of state, with respect to the fund, are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

(f) Fund records of individual participants and participants' information are confidential, except for the name and years of service of a fund participant.

SECTION 5. IC 33-14-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2003 (RETROACTIVE)]:

Sec. 10. (a) The board shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits under this chapter.

(2) In accordance with the powers and duties granted the board in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter.

(c) A determination by the board may be appealed under IC 4-21.5.

(d) The powers and duties of:

- (1) the director and the actuary of the board;
- (2) the treasurer of state;
- (3) the attorney general; and
- (4) the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

(f) Fund records of individual participants and participants' information are confidential, except for the name and years of service of a fund participant.

SECTION 6. IC 33-38-6-23, AS ADDED BY SEA 263-2004, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 23. (a) The board of trustees of the public employees' retirement fund shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall **do the following:**

- (1) Determine eligibility for and make payments of benefits under IC 33-38-7 and IC 33-38-8.
- (2) In accordance with the powers and duties granted it in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund. ~~and~~
- (3) Provide by rule for the implementation of this chapter and IC 33-38-7 and IC 33-38-8.

(c) A determination by the board may be appealed under the procedures in IC 4-21.5.

(d) The powers and duties of:

- (1) the director and the actuary of the board;
- (2) the treasurer of state;
- (3) the attorney general; and
- (4) the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

(f) Fund records of individual participants and participants'

information are confidential, except for the name and years of service of a fund participant.

SECTION 7. IC 33-39-7-11, AS ADDED BY SEA 263-2004, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) The board shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits under this chapter.

(2) In accordance with the powers and duties granted the board in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter.

(c) A determination by the board may be appealed under IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board;

(2) the treasurer of state;

(3) the attorney general; and

(4) the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

(f) Fund records of individual participants and participants' information are confidential, except for the name and years of service of a fund participant.

SECTION 8. IC 36-8-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2003 (RETROACTIVE)]: Sec. 5. (a) The PERF board shall:

(1) determine eligibility for and make payments of benefits, except as provided in section 12 of this chapter;

(2) in accordance with the powers and duties granted it in IC 5-10.3-3-7, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the 1977 fund; and

(3) provide by rule for the implementation of this chapter.

(b) A determination by the PERF board may be appealed under the procedures in IC 4-21.5.

(c) The powers and duties of the director and the actuary of the PERF board, the treasurer of state, the attorney general, and the auditor of state, with respect to the 1977 fund, are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(d) The PERF board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

(e) The 1977 fund records of individual members and membership information are confidential, except for the name and years of service of a 1977 fund member.

SECTION 9. An emergency is declared for this act.

P.L.95-2004

[H.1401. Approved March 18, 2004.]

AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 1.5. Public Officers Compensation Advisory Commission

Sec. 1. As used in this chapter, "commission" refers to the public officers compensation advisory commission established by section 6 of this chapter.

Sec. 2. As used in this chapter, "growth rate" refers to the rate of change in Indiana nonfarm income determined by the Bureau of Economic Analysis of the United States Department of Commerce.

Sec. 3. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 4. As used in this chapter, "public employee" refers to any of the following:

- (1) An employee of the state.**

(2) An employee of a political subdivision.

(3) An employee of any other entity whose salary is paid in any part from funds derived from taxes imposed by the state or a political subdivision.

Sec. 5. As used in this chapter, "public officer" refers to any of the following:

(1) The governor.

(2) The lieutenant governor.

(3) The secretary of state.

(4) The auditor of state.

(5) The treasurer of state.

(6) The attorney general.

(7) The clerk of the supreme court.

(8) The state superintendent of public instruction.

(9) A justice of the supreme court of Indiana.

(10) A judge of the court of appeals of Indiana.

(11) A judge of the Indiana tax court.

(12) A judge of a circuit, superior, probate, or county court.

(13) A member of the general assembly.

Sec. 6. There is established the public officers compensation advisory commission.

Sec. 7. (a) The commission consists of the following members:

(1) Two (2) members appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party.

(2) Two (2) members appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party.

(3) Two (2) members appointed by the governor. The members appointed under this subdivision may not be members of the same political party.

(4) Two (2) members appointed by the chief justice of the supreme court of Indiana. The members appointed under this subdivision may not be members of the same political party.

(5) One (1) member appointed by the chief judge of the court of appeals of Indiana.

(b) The following may not be a commission member:

(1) A public officer.

(2) A public employee.

(3) An individual who has a pecuniary interest in the salary of a public officer. For purposes of this subdivision, an individual has a pecuniary interest in the salary of a public officer if an increase in the salary of a public officer will result in an ascertainable increase in the income or net worth of the individual.

Sec. 8. (a) The term of a commission member begins on the later of the following:

(1) July 1 after the member is appointed.

(2) The day the member accepts the member's appointment.

(b) The term of a commission member expires on July 1 of the fourth year after the year the member's term begins.

(c) A member may be reappointed to serve a new term.

Sec. 9. (a) If there is a vacancy on the commission, the public officer who appointed the member whose position is vacant shall appoint an individual to fill the vacancy.

(b) The member appointed under this section shall fill the vacancy for the remainder of the unexpired term.

Sec. 10. (a) Before July 1 of each odd numbered year, the chairman of the legislative council shall appoint one (1) member to be chair of the commission.

(b) The member appointed as chair of the commission serves as chair beginning July 1 after appointment.

(c) A member of the commission may be reappointed as chair of the commission.

Sec. 11. Five (5) commission members constitute a quorum. The affirmative votes of at least five (5) commission members are necessary for the commission to take official action other than to adjourn or to meet to hear reports or testimony.

Sec. 12. The commission shall meet at the call of the chair and at other times as the commission considers necessary.

Sec. 13. Each member of the commission is entitled to the following:

(1) The salary per diem provided under IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of

administration and approved by the budget agency.

Sec. 14. The legislative services agency shall provide administrative support for the commission. At the request of the legislative services agency, the state personnel department or the Indiana judicial center established by IC 33-38-9-4 shall assign staff to provide research and other support to assist the legislative services agency in providing administrative support to the commission.

Sec. 15. The legislative services agency may contract with consultants on behalf of the commission as the commission considers necessary to implement this chapter.

Sec. 16. Except as otherwise provided by this chapter, the commission is subject to the rules of the legislative council.

Sec. 17. The commission shall make reports to the general assembly as required by this chapter or by the legislative council. The reports to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 18. The commission shall meet at least one (1) time not later than July 1 of each even-numbered year to do the following:

- (1) For each public officer listed in section 5 of this chapter, determine the most recent year that the public officer received a salary increase.
- (2) Receive information relating to the salaries of public officers.
- (3) Consider recommendations for suitable salaries for public officers.
- (4) Take testimony relating to the salaries of public officers.

Sec. 19. (a) Not later than September 1 of each even-numbered year, the commission shall make written recommendations to the:

- (1) legislative council; and
- (2) budget committee;

concerning suitable salaries for public officers. The recommendations to the legislative council must be in an electronic format under IC 5-14-6.

(b) When making recommendations, the commission shall make a separate recommendation, including a recommendation for no adjustment of salary, for each separate public officer listed in section 5 of this chapter.

(c) The commission may not recommend an increase in the

salary of a public officer to an amount that exceeds the salary the public officer would receive if the salary of the public officer increased each year since the most recent year the public officer received a salary increase by the growth rate for each respective year.

Sec. 20. For purposes of this chapter, a health care adjustment under IC 33-38-5-8.2 is not considered part of the salary of a public officer.

Sec. 21. A commission recommendation does not take effect unless enacted by the general assembly.

Sec. 22. There is annually appropriated to the legislative services agency from the state general fund money necessary for the operation of the commission.

Sec. 23. Notwithstanding IC 1-1-1-8, the provisions of this chapter are not severable.

SECTION 2. IC 5-10.2-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2004]: Sec. 3. (a) Except as provided in subsection ~~(e)~~, **(f)**, in computing the retirement benefit for a nonteacher member, "average of the annual compensation" means the average annual compensation calculated using the twenty (20) calendar quarters of service in a position covered by the retirement fund before retirement in which the member's annual compensation was the highest. However, in order for a quarter to be included in the twenty (20) calendar quarters, the nonteacher member must have performed service throughout the calendar quarter. All twenty (20) calendar quarters do not have to be continuous but they must be in groups of four (4) consecutive calendar quarters. The same calendar quarter may not be included in two (2) different groups.

(b) This subsection does not apply to a teacher member described in subsection (c). In computing the retirement benefit for a teacher member, "average of the annual compensation" means the average annual compensation for the five (5) years of service before retirement in which the member's annual compensation was highest. In order for a year to be included in the five (5) years, the teacher member must have received for the year credit under IC 21-6.1-4-2 for at least one-half (1/2) year of service. The five (5) years do not have to be continuous.

(c) This subsection applies to a member of the Indiana state

teachers' retirement fund who serves in an elected position for which the member takes an unpaid leave of absence. In computing the retirement benefit for a teacher member described in this subsection for years of service to which IC 21-6.1-5-7.5 does not apply, "average of the annual compensation" means the annual compensation for the one (1) year of service before retirement in which the member's annual compensation was highest. In order for a year to be used, the teacher member must have received for the year credit under IC 21-6.1-4-2 for at least one-half (1/2) year of service.

(d) Subject to IC 5-10.2-2-1.5 "annual compensation" means:

(1) the basic salary earned by and paid to the member plus the amount that would have been part of that salary but for:

(†) (A) the state's, a school corporation's, a participating political subdivision's, or a state educational institution's (as defined in IC 20-12-0.5-1) paying the member's contribution to the fund for the member; or

(2) (B) the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code; and

(2) in the case of a member described in subsection (c) and for years of service to which IC 21-6.1-5-7.5 does not apply, the basic salary that was not paid during the year but would have been paid to the member during the year under the member's employment contracts if the member had not taken any unpaid leave of absence to serve in an elected position.

The portion of a back pay award or a similar award that the board determines is compensation under an agreement or under a judicial or an administrative proceeding shall be allocated by the board among the years the member earned or should have earned the compensation. Only that portion of the award allocated to the year the award is made is considered to have been earned during the year the award was made. Interest on an award is not considered annual compensation for any year.

(†)(e) Compensation of no more than two thousand dollars (\$2,000) received from the employer in contemplation of the member's retirement, including severance pay, termination pay, retirement bonus, or commutation of unused sick leave or personal leave, may be

included in the total annual compensation from which the average of the annual compensation is determined, if it is received:

- (1) before the member ceases service; or
 - (2) within twelve (12) months after the member ceases service.
- (e) (f) This section applies to a member of the general assembly:
- (1) who is a participant in the legislators' retirement system established under IC 2-3.5;
 - (2) who is also a member of the public employees' retirement fund or the state teachers' retirement fund; and
 - (3) whose years of service in the general assembly may not be considered in determining the average of the annual compensation under this section, as provided in IC 2-3.5-1-2(b)(2) or IC 2-3.5-3-1(c).

The board shall use the board's actuarial salary increase assumption to project the salary for any previous year needed to determine the average of the annual compensation.

SECTION 3. IC 33-34-8-1, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The following fees and costs apply to cases in the small claims court:

- (1) A township docket fee of five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.
- (2) The bailiff's service of process by registered or certified mail fee of thirteen dollars (\$13) for each service.
- (3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars (\$13) for each service.
- (4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.
- (5) A redocketing fee, if any, of five dollars (\$5).
- (6) A document storage fee under IC 33-37-5-20.
- (7) An automated record keeping fee under IC 33-37-5-21.
- (8) A late fee, if any, under IC 33-37-5-22.

(9) A judicial insurance adjustment fee under IC 33-37-5-25.

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 4. IC 33-37-4-1, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
- (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (7) A child abuse prevention fee (IC 33-37-5-12).
- (8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
- (9) A highway work zone fee (IC 33-37-5-14).
- (10) A deferred prosecution fee (IC 33-37-5-17).
- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).

(15) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and

(2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) The clerk shall apply the partial payment to general court costs.
- (2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
- (3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.
- (4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.
- (5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 5. IC 33-37-4-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance

violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (5) A highway work zone fee (IC 33-37-5-14).
- (6) A deferred prosecution fee (IC 33-37-5-17).
- (7) A jury fee (IC 33-19-6-17). (IC 33-37-5-19).
- (8) A document storage fee (IC 33-37-5-20).
- (9) An automated record keeping fee (IC 33-37-5-21).
- (10) A late payment fee (IC 33-37-5-22).

(11) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

- (1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (3) The deferral program fee (subsection e).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

- (1) The defendant was charged with an ordinance violation subject to IC 33-36.
- (2) The defendant denied the violation under IC 33-36-3.
- (3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (4) The defendant was tried and the court entered judgment for the defendant for the violation.
- (e) Instead of the infraction or ordinance violation costs fee

prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-4 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 6. IC 33-37-4-3, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

- (1) IC 31-34 (children in need of services).
- (2) IC 31-37 (delinquent children).
- (3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (6) A document storage fee (IC 33-37-5-20).
- (7) An automated record keeping fee (IC 33-37-5-21).
- (8) A late payment fee (IC 33-37-5-22).

(9) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

- (1) The marijuana eradication program fee (IC 33-37-5-7).
- (2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

SECTION 7. IC 33-37-4-4, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:

- (1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- (4) Proceedings in paternity under IC 31-14.
- (5) Proceedings in small claims court under IC 33-34.
- (6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A support and maintenance fee (IC 33-37-5-6).
- (3) A document storage fee (IC 33-37-5-20).
- (4) An automated record keeping fee (IC 33-37-5-21).

(5) A judicial insurance adjustment fee under IC 33-37-5-25.

SECTION 8. IC 33-37-4-5, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars (\$35). However, a clerk may not collect a small claims costs fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees, if they are required

under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) This section expires July 1, 2005.

SECTION 9. IC 33-37-4-6, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) For each small claims action, the clerk shall collect from the party filing the action both of the following fees:

(1) A small claims costs fee of thirty-five dollars (\$35).

(2) A small claims service fee of five dollars (\$5) for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) This section applies after June 30, 2005.

SECTION 10. IC 33-37-4-7, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

(1) IC 6-4.1-5 (determination of inheritance tax).

(2) IC 29 (probate).

(3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

(1) Petition to open a safety deposit box.

(2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.

(3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 11. IC 33-37-5-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25. (a) This subsection does not apply to the following:**

(1) A criminal proceeding.

(2) A proceeding for an infraction violation.

(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-19-1-1, the clerk shall collect a judicial insurance adjustment fee of one dollar (\$1).

(b) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have violated an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a judicial insurance adjustment fee of one dollar (\$1).

SECTION 12. IC 33-37-7-1, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:**

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-5(a) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established by IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under, IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child

advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The ~~county~~ clerk of a circuit court shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

~~(h)~~ (i) This section expires July 1, 2005.

SECTION 13. IC 33-37-7-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

- (1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.
- (2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.
- (2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The ~~county~~ clerk of a circuit court shall distribute monthly to the

office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(2) for deposit in the county general fund.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

⌘ (j) This section applies after June 30, 2005.

SECTION 14. IC 33-37-7-7, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-5 (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-5 (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-5 (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established by IC 33-37-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall monthly distribute to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one

hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

~~(g)~~ **(h)** This section expires July 1, 2005.

SECTION 15. IC 33-37-7-8, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6),

IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

~~(g)~~ (i) This section applies after June 30, 2005.

SECTION 16. IC 33-38-5-8.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]: **Sec. 8.2. (a) As used in this section, "account" refers to the judicial branch health care adjustment account established by subsection (d).**

(b) As used in this section, "employees of the judicial branch" includes the following:

(1) Each judge described in section 6 of this chapter.

(2) Each magistrate:

(A) described in section 7 of this chapter; and

(B) receiving a salary under IC 33-23-5-10.

(3) Each justice and judge described in section 8 of this chapter.

(4) The judge described in IC 33-26.

(5) A prosecuting attorney whose entire salary is paid by the state.

(c) Employees of the judicial branch are entitled to a health care adjustment in any year that the governor provides a health care adjustment to employees of the executive branch.

(d) The judicial branch insurance adjustment account within the state general fund is established for the purpose of providing health care adjustments under subsection (c). The account shall be administered by the supreme court.

(e) The expenses of administering the account shall be paid from money in the account.

(f) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(g) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(h) Money in the account is annually appropriated to the supreme court for the purpose of this section.

(i) If the funds appropriated for compliance with this section are insufficient, there is annually appropriated from the state general fund sufficient funds to carry out the purpose of this section.

SECTION 17. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 2-5-1.5, as added by this act, apply throughout this SECTION.

(b) The appointing authorities of the commission members shall appoint the commission members, subject to IC 2-5-1.5, as added by this act, before July 1, 2004.

(c) The chairman of the legislative council shall appoint the commission chair, subject to IC 2-5-1.5, as added by this act, before July 1, 2004.

(d) Notwithstanding IC 2-5-1.5-18, as added by this act, the commission shall meet at least one (1) time not later than August

1, 2004, to carry out the functions listed in IC 2-5-1.5-18, as added by this act.

(e) Not later than September 1, 2004, the commission shall make written recommendations to the:

- (1) legislative council; and
- (2) budget committee;

concerning suitable salaries for public officers. The recommendations to the legislative council must be in an electronic format under IC 5-14-6.

(f) For purposes of this SECTION, the health care adjustment provided by SECTION 19 of this act is not considered part of the salary of a public officer.

(g) Except as provided in this SECTION, IC 2-5-1.5, as added by this act applies to the commission's proceedings under this SECTION.

(h) The SECTION expires July 1, 2005.

SECTION 18. [EFFECTIVE JUNE 1, 2004] IC 5-10.2-4-3, as amended by this act, applies only to members of the Indiana state teachers' retirement fund who retire after May 31, 2004.

SECTION 19. [EFFECTIVE APRIL 1, 2004] (a) Employees of the judicial branch (as defined in IC 33-38-5-8.2, as added by this act) are entitled to a health care adjustment equal to the adjustment provided by the governor for state employees with respect to calendar years 2003 and 2004.

(b) Payment of the:

- (1) one thousand ninety-two dollar (\$1,092) health care adjustment with respect to 2003 shall be included as a lump sum in the first pay period beginning after April 1, 2004; and
- (2) eight hundred eighty-four (\$884) health care adjustment with respect to 2004 shall be prorated over the pay periods remaining in 2004 after April 1, 2004.

(c) Funds for compliance with this SECTION are appropriated to the supreme court from the judicial branch insurance adjustment account established by IC 33-38-5-8.2, as added by this act, for the biennium ending June 30, 2005.

(d) If the funds appropriated for compliance with this SECTION are insufficient, there is appropriated to the supreme court from the personal services/fringe benefits contingency fund for the biennium ending June 30, 2005, sufficient funds to carry out

the purpose of this SECTION notwithstanding the appropriation made to the state budget agency for the personal services/fringe benefits contingency fund in P.L.224-2003, SECTION 3.

(e) This SECTION expires July 1, 2005.

SECTION 20. [EFFECTIVE UPON PASSAGE] Notwithstanding IC 1-1-1-8, the provisions of this act are not severable.

SECTION 21. An emergency is declared for this act.

P.L.96-2004

[H.1434. Approved March 18, 2004.]

AN ACT to amend the Indiana Code concerning economic development.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-3-12-3, AS AMENDED BY P.L.58-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. The corporation, after being certified by the governor under section 1 of this chapter, may:

- (1) establish programs to identify entrepreneurs with marketable ideas and to support the organization and development of new business enterprises, including technologically oriented enterprises;
- (2) conduct conferences and seminars to provide entrepreneurs with access to individuals and organizations with specialized expertise;
- (3) establish a statewide network of public, private, and educational resources to assist the organization and development of new enterprises;
- (4) operate a small business assistance center to provide small businesses, including minority owned businesses and businesses owned by women, with access to managerial and technical expertise and to provide assistance in resolving problems encountered by small businesses;

(5) cooperate with the Indiana business modernization and technology corporation, other public and private entities, including the Indiana small business development network and the federal government marketing program, in exercising the powers listed in subdivisions (1) through (4);

~~(6) establish and administer the small and minority business assistance program under IC 4-3-16;~~

~~(7) approve and administer loans from the enterprise development fund established under IC 4-3-13; and~~

~~(8)~~ **(6)** coordinate state-funded programs that assist the organization and development of new enterprises.

SECTION 2. IC 4-3-13-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.5. As used in this chapter, "corporation" refers to the Indiana ~~small business economic development corporation~~ **council established under IC 4-3-14.**

SECTION 3. IC 4-3-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. As used in this chapter, "fund" refers to the ~~enterprise development microenterprise partnership program~~ **fund established by section 9 of this chapter.**

SECTION 4. IC 4-3-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The general assembly makes the following findings of fact:

(1) There exists in Indiana an inadequate amount of locally managed, pooled investment capital in the private sector available to invest in new and existing business ventures, including business ventures by nontraditional entrepreneurs.

(2) Investing capital and business management advice in new and existing business ventures, including business ventures by nontraditional entrepreneurs, will enhance economic development and create and retain employment within Indiana. This investment will enhance the health and general welfare of the people of Indiana and constitutes a public purpose.

(3) Nontraditional entrepreneurs have not engaged in entrepreneurship and self-employment to the extent found in the mainstream of Indiana's population. Realizing the potential of these nontraditional entrepreneurs will enhance Indiana's economic vitality.

(b) Therefore, it is declared to be the policy of the state to promote

economic development and entrepreneurial talent of the state's inhabitants by the creation of the ~~enterprise development~~ fund for the public purpose of promoting opportunities for gainful employment and business opportunities.

SECTION 5. IC 4-3-13-9, AS AMENDED BY P.L.58-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The ~~enterprise development~~ **microenterprise partnership program** fund is established. The fund is a revolving fund for the purpose of:

- (1) providing loans approved by the corporation under this chapter and IC 4-3-12-3;
- (2) providing loans or loan guarantees under the small and minority business financial assistance program established by IC 4-3-16;
- (3) carry out the microenterprise partnership program under IC 4-4-32.4; and**
- ~~(3)~~ **(4)** paying the costs of administering this chapter, ~~and~~ IC 4-3-16, **and IC 4-4-32.4.**

The fund shall be administered by the corporation.

(b) The fund consists of:

- (1) amounts appropriated by the general assembly;
- (2) the repayment proceeds (including interest) of loans made from the fund; and
- (3) donations, grants, and money received from any other source.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The fund is subject to an annual audit by the state board of accounts. The fund shall bear the full costs of this audit.

SECTION 6. IC 4-3-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) As used in this section, "eligible entity" means any partnership, unincorporated association, corporation, or limited liability company, whether or not operated for profit, that is established for the purpose of establishing a local investment pool.

(b) A local investment pool may be established only by an eligible

entity. A political subdivision may participate in the establishment of an eligible entity but may not be the sole member of the eligible entity.

(c) The articles of incorporation or bylaws of the eligible entity, as appropriate, must provide the following:

(1) The exclusive purpose of the eligible entity is to establish a local investment pool to:

(A) attract private equity investment to provide grants, equity investments, loans, and loan guarantees for the establishment or operation of businesses in Indiana; and

(B) provide a low to moderate rate of return to investors in the short term, with higher rates of return in the long term.

(2) The governing body of the eligible entity must include:

(A) persons who are qualified by professional background and business experience to make sound financial and investment decisions in the private sector; and

(B) representatives of nontraditional entrepreneurs.

(3) The eligible entity may receive funds from:

(A) equity investors;

(B) grants and loans from local units of government;

(C) grants and loans from the federal government;

(D) donations; and

(E) loans from the ~~enterprise development~~ fund.

SECTION 7. IC 4-3-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. (a) A local opportunity pool may be established only by a nonprofit corporation or a for profit corporation established for that purpose. A political subdivision may participate in the establishment of such a corporation but may not be the sole member of the corporation.

(b) The articles of incorporation or bylaws of the corporation, as appropriate, must provide the following:

(1) The exclusive purpose of the corporation is to establish a local opportunity pool to:

(A) attract sources of funding other than private equity investment to provide grants, loans, and loan guarantees for the establishment or operation of nontraditional entrepreneurial endeavors in Indiana; and

(B) enter into financing agreements that seek the return of the principal amounts advanced by the pool, with the potential for

a greater return.

- (2) The board of directors of the corporation must include:
 - (A) persons who are actively engaged in Indiana in private enterprise, organized labor, or state or local governmental agencies and who are qualified by professional background and business experience to make sound financial and investment decisions in the private sector; and
 - (B) representatives of nontraditional entrepreneurs.
- (3) The corporation may receive funds from:
 - (A) philanthropic foundations;
 - (B) grants and loans from local units of government;
 - (C) grants and loans from the federal government;
 - (D) donations;
 - (E) bequests; and
 - (F) loans from the ~~enterprise development~~ fund.

SECTION 8. IC 4-3-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The articles of incorporation or bylaws of the corporation, as appropriate, must provide that:

- (1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by:
 - (A) coordinating the activities of all parties having a role in the state's economic development through evaluating, overseeing, and appraising those activities on an ongoing basis;
 - (B) overseeing the implementation of the state's economic development plan and monitoring the updates of that plan; and
 - (C) educating and assisting all parties involved in improving the long range vitality of the state's economy;
- (2) the board must include:
 - (A) the governor;
 - (B) the lieutenant governor;
 - (C) the chief operating officer of the corporation;
 - (D) the chief operating officer of the corporation for Indiana's international future; and
 - (E) additional persons appointed by the governor, who are actively engaged in Indiana in private enterprise, organized labor, state or local governmental agencies, and education, and who represent the diverse economic and regional interests throughout Indiana;

(3) the governor shall serve as chairman of the board of the corporation, and the lieutenant governor shall serve as the chief executive officer of the corporation;

(4) the governor shall appoint as vice chairman of the board a member of the board engaged in private enterprise;

(5) the lieutenant governor shall be responsible as chief executive officer for overseeing implementation of the state's economic development plan as articulated by the corporation and shall oversee the activities of the corporation's chief operating officer;

(6) the governor may appoint an executive committee composed of members of the board (size and structure of the executive committee shall be set by the articles and bylaws of the corporation);

(7) the corporation may receive funds from any source and may expend funds for any activities necessary, convenient, or expedient to carry out its purposes;

(8) any amendments to the articles of incorporation or bylaws of the corporation must be approved by the governor;

(9) the corporation shall submit an annual report to the governor and to the Indiana general assembly on or before the first day of November for each year;

(10) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and

(11) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

(b) The corporation may perform other acts and things necessary, convenient, or expedient to carry out the purposes identified in this section, and it has all rights, powers, and privileges granted to corporations by IC 23-17 and by common law.

(c) The corporation shall:

(1) approve and administer loans from the microenterprise partnership program fund established under IC 4-3-13-9;

(2) establish and administer the nontraditional entrepreneur program under IC 4-3-13;

(3) establish and administer the small and minority business assistance program under IC 4-3-16; and

(4) establish and administer the microenterprise partnership program under IC 4-4-32.4.

SECTION 9. IC 4-3-16-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.5. As used in this chapter, "corporation" refers to the Indiana ~~small business economic development corporation~~ **council established under IC 4-3-14.**

SECTION 10. IC 4-3-16-2.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.7. As used in this chapter, "fund" refers to the ~~enterprise development~~ **microenterprise partnership program** fund established by IC 4-3-13-9.

SECTION 11. IC 4-4-32.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 32.4. Microenterprise Partnership Program

Sec. 1. As used in this chapter, "council" means the Indiana economic development council established under IC 4-3-14.

Sec. 2. As used in this chapter, "microenterprise" means a business with fewer than five (5) employees. The term includes startup, home based, and self-employed businesses.

Sec. 3. As used in this chapter, "microloan" means a business loan of not more than twenty-five thousand dollars (\$25,000).

Sec. 4. As used in this chapter, "microloan delivery organization" means a community based or nonprofit program that:

- (1) has developed a viable plan for providing training, access to financing, and technical assistance to microenterprises; and**
- (2) meets the criteria and qualifications set forth in this chapter.**

Sec. 5. As used in this chapter, "operating costs" refers to the costs associated with administering a loan or a loan guaranty, administering a revolving loan program, or providing for business training and technical assistance to a microloan recipient.

Sec. 6. As used in this chapter, "program" refers to the microenterprise partnership program established under section 7 of this chapter.

Sec. 7. (a) The council shall establish the microenterprise

partnership program to provide grants to microloan delivery organizations.

(b) A grant provided under subsection (a) may not exceed twenty-five thousand dollars (\$25,000).

(c) A microloan delivery organization receiving a grant under this section must use the grant for the purposes set forth in this chapter.

Sec. 8. To establish the criteria for making a grant to a microloan delivery organization, the council shall consider the following:

(1) The microloan delivery organization's plan for providing business development services and microloans to microenterprises.

(2) The scope of services provided by the microloan delivery organization.

(3) The microloan delivery organization's plan for coordinating the services and loans provided under this chapter with those provided by commercial lending institutions.

(4) The geographic representation of all regions of the state, including both urban and rural communities and neighborhoods.

(5) The microloan delivery organization's emphasis on supporting female and minority entrepreneurs.

(6) The ability of the microloan delivery organization to provide business training and technical assistance to microenterprises.

(7) The ability of the microloan delivery organization to monitor and provide financial oversight of recipients of microloans.

(8) The sources and sufficiency of the microloan delivery organization's operating funds.

Sec. 9. A grant received by a microloan delivery organization may be used for the following purposes:

(1) To satisfy matching fund requirements for federal or private grants.

(2) To establish a revolving loan fund from which the microloan delivery organization may make loans to microenterprises.

(3) To establish a guaranty fund from which the microloan delivery organization may guarantee loans made by commercial lending institutions to microenterprises.

(4) To pay the operating costs of the microloan delivery organization. However, not more than ten percent (10%) of a grant may be used for this purpose.

Sec. 10. Money appropriated to the program must be matched by at least an equal amount of money derived from any of the following nonstate sources:

(1) Private foundations.

(2) Federal sources.

(3) Local government sources.

(4) Quasi-governmental entities.

(5) Commercial lending institutions.

(6) Any other source whose funds do not include money appropriated by the general assembly.

Sec. 11. At least fifty percent (50%) of the microloan money disbursed by a microloan delivery organization must be disbursed in microloans that do not exceed ten thousand dollars (\$10,000).

Sec. 12. The council may prescribe standards, procedures, and other guidelines to implement this chapter.

Sec. 13. The council may use money in the microenterprise partnership program fund established by IC 4-3-13-9 or any other money available to the council to carry out this chapter.

Sec. 14. Before August 1, 2005, and before August 1 of each year thereafter, the council shall submit to the budget committee a supplemental report on a longitudinal study:

(1) describing the economic development outcomes resulting from microloans made under this chapter; and

(2) evaluating the effectiveness of the microloan delivery organizations and the microloans made under this chapter in:

(A) expanding employment and self-employment opportunities in Indiana; and

(B) increasing the incomes of persons employed by microenterprises.

SECTION 12. [EFFECTIVE JULY 1, 2004] (a) After June 30, 2004, any reference in any law, rule, or other document to the enterprise development fund shall be treated as a reference to the microenterprise partnership program fund.

(b) After June 30, 2004, any reference in any law, rule, or other document to the Indiana small business development corporation as it relates to the programs established under IC 4-3-13 and IC 4-3-16, as effective before July 1, 2004, shall be treated as a reference to the Indiana economic development council.

(c) Effective July 1, 2004, any property or liabilities accruing to the Indiana small business development corporation in connection with the administration of IC 4-3-13 and IC 4-3-16, as effective before July 1, 2004, are transferred to the Indiana economic development council.

(d) This SECTION expires July 1, 2005.

SECTION 13. IC 4-4-30-8, AS ADDED BY P.L.159-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The coal technology research fund is established to provide money for the center for coal technology research and for the director to carry out the duties specified under this chapter. The budget agency shall administer the fund.

(b) The fund consists of the following:

- (1) Money appropriated **or otherwise designated or dedicated** by the general assembly.
- (2) Gifts, grants, and bequests.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as the treasurer may invest other public funds.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 14. IC 4-12-10-3, AS ADDED BY P.L.26-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The Indiana economic development partnership fund is established to provide grants for economic development initiatives that support the following:

- (1) The establishment of regional technology **and entrepreneurship** centers for the creation of high technology companies **to support access to technology for existing businesses** and for the support of workforce development.
- (2) The providing of leadership and technical support necessary for the centers' start-up operations and long term success.
- (3) The expansion of the Purdue Technical Assistance Program **to**

other higher education institutions in ten (10) geographic regions of Indiana.

(4) The creation of a rural/community economic development regional outreach program by Purdue University.

(5) The expansion of workforce development for high technology business development through the centers.

(b) The fund shall be administered by the budget agency. The fund consists of appropriations from the general assembly and gifts and grants to the fund, **including money received from the state technology advancement and retention account established by IC 4-12-12-1.**

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter.

SECTION 15. IC 4-12-10-4, AS ADDED BY P.L.26-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The budget agency, after review by the budget committee, shall **enter into an agreement with the department of commerce** to do the following:

(1) Review, prioritize, and approve or disapprove proposals for centers.

(2) Create detailed application procedures and selection criteria for center proposals. These criteria may include the following:

(A) Geographical proximity to and partnership agreement with an Indiana public or private university.

(B) Proposed local contributions to the center.

(C) Minimum standards and features for the physical facilities of a center, including telecommunications infrastructure.

(D) The minimum support services, both technical and financial, that must be provided by the centers.

(E) Guidelines for selecting entities that may participate in the center.

(3) Develop performance measures and reporting requirements for the centers.

(4) Monitor the effectiveness of each center and report its findings

to the governor, **the budget agency**, and the budget committee before October 1 of each even-numbered year.

~~(5) Contract with Purdue University for any staff support necessary for the budget agency to carry out this chapter.~~

~~(6)~~ (5) Approve a regional technology center only if the center agrees to do all of the following:

(A) Nurture the development and expansion of high technology ventures that have the potential to become high growth businesses.

(B) Increase high technology employment in Indiana.

(C) Stimulate the flow of new venture capital necessary to support the growth of high technology businesses in Indiana.

(D) Expand workforce education and training for highly skilled, high technology jobs.

(E) Affiliate with an Indiana public or private university and be located in close proximity to a university campus.

(F) Be a party to a written agreement among:

(i) the affiliated university;

(ii) the city or town in which the proposed center is located, or the county in which the proposed center is located if the center is not located in a city or town;

(iii) Purdue University, for technical and personnel training support; and

(iv) any other affiliated entities;

that outlines the responsibilities of each party.

(G) Establish a debt free physical structure designed to accommodate research and technology ventures.

(H) Provide support services, including business planning, management recruitment, legal services, securing of seed capital marketing, and mentor identification.

(I) Establish a commitment of local resources that is at least equal to the money provided from the fund for the physical facilities of the center.

(b) The ~~budget agency~~ **department of commerce** may not approve more than five (5) regional technology centers in any biennium.

(c) The budget agency shall contract with Purdue University:

(1) for any support staff necessary for the budget agency to provide grants under section 3(a)(3) and 3(a)(4) of this

chapter; and

(2) to provide services under section 7 of this chapter.

SECTION 16. IC 4-12-10-6, AS ADDED BY P.L.26-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) **If the department of commerce and the budget agency approve** a center, ~~is approved by the budget agency;~~ the budget agency shall allocate from available appropriations the money authorized to:

(1) subsidize construction or rehabilitation of the physical facilities; and

(2) cover operating costs, not to exceed two hundred fifty thousand dollars (\$250,000) each year, until the center is self-sustaining or has identified another source of operating money or the amount appropriated for this purpose is exhausted.

(b) Operating costs may not be supported by the fund for any center for more than four (4) years.

SECTION 17. IC 4-12-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 12. State Technology Advancement and Retention (STAR) Account

Sec. 1. The state technology advancement and retention (STAR) account is established within the state general fund. The purpose of the account is to provide funding for programs within Indiana that are designed to:

(1) advance and retain technology related enterprises within Indiana; and

(2) train and retain students with an emphasis on technology.

Sec. 2. The budget agency shall administer the STAR account.

Sec. 3. The account consists of money, including federal money, appropriated to the account by the general assembly and gifts and grants to the account. An appropriation, a gift, or a grant may be designated for one (1) or more purposes listed in section 6 of this chapter.

Sec. 4. The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public funds may be invested.

Sec. 5. Money in the account at the end of a state fiscal year

reverts to the state general fund.

Sec. 6. Money in the account that is not otherwise designated under section 3 of this chapter is annually dedicated to the following:

- (1) The certified school to career program and grants under IC 22-4.1-8.
- (2) The certified internship program and grants under IC 22-4.1-7.
- (3) The Indiana economic development partnership fund under IC 4-12-10.
- (4) Minority training program grants under IC 22-4-18.1-11.
- (5) Technology apprenticeship grants under IC 20-1-18.7.
- (6) The back home in Indiana program under IC 22-4-18.1-12.
- (7) The Indiana schools smart partnership under IC 22-4.1-9.
- (8) The scientific instrument project within the department of education.
- (9) The coal technology research fund under IC 4-4-30-8.

Sec. 7. Expenses for administering the account or any of the programs funded from the account may be taken from the account but may not exceed two percent (2%) of the balance in the account. The budget agency must approve administrative expenses taken from the account.

SECTION 18. IC 20-1-18.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Chapter 18.7. Technology Apprenticeship Grants**

Sec. 1. As used in this chapter, "department" refers to the department of education established by IC 20-1-1.1-2.

Sec. 2. As used in this chapter, "program" refers to the technology apprenticeship grant program established by section 3 of this chapter.

Sec. 3. The technology apprenticeship grant program is established. The department, with the advice of the department of labor established by IC 22-1-1-1, shall administer the program.

Sec. 4. The department, working with the department of labor, shall develop a grant program to provide grants from the state technology advancement and retention account established by IC 4-12-12-1 for apprenticeships that are designed to develop the skills of apprentices in the area of technology.

Sec. 5. The department, with the department of labor, shall

develop standards for the issuance of grants to businesses and unions that are working to enhance the technology skills of apprentices.

Sec. 6. Grants issued under this chapter are subject to approval by the budget agency.

SECTION 19. IC 22-4-18.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. The state human resource investment council is established pursuant to 29 U.S.C. 1501 et seq. to do the following:

(1) Review the services and use of funds and resources under applicable federal programs and advise the governor on methods of coordinating the services and use of funds and resources consistent with the laws and regulations governing the particular applicable federal programs.

(2) Advise the governor on:

(A) the development and implementation of state and local standards and measures; and

(B) the coordination of the standards and measures; concerning the applicable federal programs.

(3) Perform the duties as set forth in federal law of the particular advisory bodies for applicable federal programs described in section 4 of this chapter.

(4) Identify the human investment needs in Indiana and recommend to the governor goals to meet the investment needs.

(5) Recommend to the governor goals for the development and coordination of the human resource system in Indiana.

(6) Prepare and recommend to the governor a strategic plan to accomplish the goals developed under subdivisions (4) and (5).

(7) Monitor the implementation of and evaluate the effectiveness of the strategic plan described in subdivision (6).

(8) Advise the governor on the coordination of federal, state, and local education and training programs and on the allocation of state and federal funds in Indiana to promote effective services, service delivery, and innovative programs.

(9) Administer the minority training grant program established by section 11 of this chapter.

(10) Administer the back home in Indiana program established by section 12 of this chapter.

(11) Any other function assigned to the council by the governor with regard to the study and evaluation of Indiana's human service delivery system.

SECTION 20. IC 22-4-18.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The council shall serve as the state advisory body required under the following federal laws:

- (1) The ~~Job Training Partnership Act under 29 U.S.C. 1501 et seq.~~ **Workforce Investment Act of 1998 under 29 U.S.C. 2801 et seq.**
- (2) The Wagner-Peyser Act under 29 U.S.C. 49 et seq.
- (3) The Carl D. Perkins Vocational and Applied Technology Act under 20 U.S.C. 2301 et seq.
- (4) The Adult Education **and Family Literacy** Act under 20 U.S.C. ~~1201~~ **9201** et seq.

(b) In addition, the council may be designated to serve as the state advisory body required under any of the following federal laws upon approval of the particular state agency directed to administer the particular federal law:

- (1) The National and Community Service Act of 1990 under 42 U.S.C. 12501 et seq.
- (2) Part ~~F A~~ of Title IV of the Social Security Act under 42 U.S.C. ~~681~~ **601** et seq.
- (3) The employment and training program established under the Food Stamp Act of 1977 under 7 U.S.C. ~~2015(d)(4)~~ **2015**.

(c) The council shall administer the minority training grant program established by section 11 of this chapter and the back home in Indiana program established by section 12 of this chapter.

SECTION 21. IC 22-4-18.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Except as provided in subsections (b) and (c) and subject to the approval of the commissioner of workforce development, the state personnel department, and the budget agency, the council may employ professional, technical, and clerical personnel necessary to carry out the duties imposed by this chapter from funds available under applicable federal and state programs, appropriations by the general assembly for this purpose, **funds in the state technology advancement and retention account established by IC 4-12-12-1,**

and any other funds (other than federal funds) available to the council for this purpose.

(b) Subject to the approval of the commissioner of workforce development and the budget agency, the council may contract for services necessary to implement this chapter.

(c) The budget agency shall serve as the fiscal agent for the distribution of all funds of the council.

SECTION 22. IC 22-4-18.1-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2004]: **Sec. 11. (a) For purposes of this section, "minority student" means a student who is a member of at least one (1) of the following groups:**

- (1) Blacks.**
- (2) American Indians.**
- (3) Hispanics.**
- (4) Asian Americans.**
- (5) Other similar racial groups.**

(b) The council shall develop a program to provide grants from the state technology advancement and retention account established by IC 4-12-12-1 for minority training programs for minority students. The grants must be used as follows:

- (1) Thirty-five percent (35%) for programs designed to enhance training in technology advancement for minority students.**
- (2) Sixty-five percent (65%) for generalized training programs for minority students.**

(c) The council shall adopt policies under which recipients may apply for and receive the grants.

(d) Grants issued under this section are subject to approval by the budget agency.

SECTION 23. IC 22-4-18.1-12 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2004]: **Sec. 12. (a) The council shall develop a program to provide for grants from the state technology advancement and retention account established by IC 4-12-12-1 or contracts to develop a back home in Indiana program. The program must provide a system to track students who have graduated from private and public colleges and universities in**

Indiana. The program must include a means of periodically contacting these graduates to inform them of job opportunities in Indiana.

(b) The council shall work with the colleges and universities in Indiana to develop the tracking system.

(c) Grants issued under this section are subject to approval by the budget agency.

SECTION 24. IC 22-4.1-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7. Certified Internship Programs and Grants

Sec. 1. As used in this chapter, "certified internship program" refers to an internship program that is certified by the department, in consultation with the department of education, under section 5 of this chapter.

Sec. 2. As used in this chapter, "employer" has the meaning set forth in IC 22-8-1.1-1.

Sec. 3. As used in this chapter, "institution of higher learning" has the meaning set forth in IC 20-12-70-4.

Sec. 4. As used in this chapter, "student" means an individual who is enrolled at an institution of higher learning on at least a part-time basis.

Sec. 5. (a) An institution of higher learning that seeks certification for an internship program under this chapter shall submit an application for certification to the department on a form prescribed by the department.

(b) The department, in consultation with the department of education, shall certify an internship program under this chapter if the program:

- (1) is operated or administered by an institution of higher learning or a department, school, or program within an institution of higher learning;
- (2) integrates a particular curriculum or course of study offered at the institution of higher learning with career internships provided by employers;
- (3) places students in career internships provided by employers;
- (4) requires participating students to meet certain academic standards established by rule by the department in

consultation with the department of education;

(5) requires employers to provide to participating students the:

(A) supervision; and

(B) payroll and personnel services;

that the employers provide to their regular part-time employees;

(6) is designed to provide an internship experience that enriches and enhances the classroom experience of participating students;

(7) requires employers to comply with all state and federal laws pertaining to the workplace; and

(8) complies with any other requirement adopted by rule by the department after consultation with the department of education.

Sec. 6. A certified internship program may allow a student to participate in an internship at any time during the year, including the summer, as long as the student remains enrolled at the institution of higher learning that operates or administers the certified internship program.

Sec. 7. (a) The department may issue a grant from the state technology advancement and retention account established by IC 4-12-12-1 to an employer that employs at least one (1) student through a certified internship program.

(b) The department shall determine the amount of a grant issued under subsection (a).

(c) A grant issued under this section is subject to approval by the budget agency.

Sec. 8. The department, in consultation with the department of education, may adopt rules under IC 4-22-2 to implement this chapter. However, the department shall adopt rules under IC 4-22-2 to implement section 7 of this chapter.

SECTION 25. IC 22-4.1-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 8. Certified School to Career Programs and Grants

Sec. 1. As used in this chapter, "certified program" means a school to career program approved by the department, in conjunction with the department of education, that is conducted

under an agreement under this chapter and that:

- (1) integrates a secondary school curriculum with private sector job training;
- (2) places students in job internships; and
- (3) is designed to continue into postsecondary education and to result in teaching new skills, adding value to the wage earning potential of participants and increasing their long term employability in Indiana.

Sec. 2. As used in this chapter, "institution of higher learning" has the meaning set forth under IC 20-12-70-4.

Sec. 3. As used in this chapter, "participant" means an individual who:

- (1) is at least sixteen (16) years of age and less than twenty-four (24) years of age;
- (2) is enrolled in a public or private secondary or postsecondary school; and
- (3) participates in a certified program as part of the individual's secondary or postsecondary school education.

Sec. 4. As used in this chapter, "sponsor" means an individual, a person, an association, a committee, an organization, or other entity operating a certified program and in whose name the certified program is registered or approved.

Sec. 5. (a) The department shall do the following:

- (1) Accept applications from entities interested in sponsoring certified programs on forms prescribed by the department.
- (2) Investigate each applicant to determine the suitability of the applicant to sponsor a certified program.
- (3) Impose an application fee in an amount sufficient to pay the costs incurred in processing the application and investigating the applicant.

(b) The department may adopt rules under IC 4-22-2 to administer this chapter.

Sec. 6. (a) The department of education shall review the secondary school curriculum component of each proposed certified program. The department may not approve a proposed certified program unless the department of education approves the applicant's proposed secondary school curriculum.

(b) Upon the request of the department, the department of education shall:

- (1) consult with the department before the adoption of rules under section 5 of this chapter; and
- (2) provide any other assistance to the department.

Sec. 7. The department may not approve a certified program unless the following requirements are met:

- (1) The program must be conducted under a written plan embodying the terms and conditions of employment, job training, classroom instruction, and supervision of one (1) or more participants, subscribed to by a sponsor who has undertaken to carry out the certified program.
- (2) The program must comply with all state and federal laws pertaining to the workplace.
- (3) The certified program agreement must provide that the sponsor or an employer participating in the program in cooperation with the sponsor agrees to assign an employee to serve as a mentor for a participant. The mentor's occupation must be in the same career pathway as the career interests of the participant.
- (4) The program must comply with any other requirement adopted by rule by the department.

Sec. 8. (a) A certified program must comply with the terms of a written agreement among the sponsor, each participant, and each cooperating employer. Except as provided in sections 9 and 10 of this chapter, each agreement must contain the following:

- (1) The names and signatures of:
 - (A) the sponsor;
 - (B) the employer (if the employer is an entity other than the sponsor); and
 - (C) the participant and the participant's parent or guardian if the participant is a minor.
- (2) A description of the career field in which the participant is to be trained and the beginning date and duration of the training.
- (3) The employer's agreement to provide paid employment for the participant at a base wage that may not be less than the minimum wage prescribed by the federal Fair Labor Standards Act during the participant's junior and senior years in high school.
- (4) The employer's agreement to assign an employee to serve

as a mentor for a participant. The mentor's occupation must be in the same career pathway as the career interests of the participant.

(5) An agreement between the participant and employer concerning specified minimum academic standards that must be maintained throughout the participant's secondary education.

(6) The participant's agreement to work for the employer for at least two (2) years following the completion of the participant's secondary education.

(b) An agreement described in subsection (a)(6) may be modified to defer the participant's employment with the employer until after the participant completes an appropriate amount of postsecondary education as agreed to by the participant and the employer.

Sec. 9. (a) If a participant's desired career pathway requires postsecondary education, an agreement required under section 8 of this chapter may be modified to include the following:

(1) The employer's agreement to provide paid employment for the participant at a base wage that may not be less than the minimum wage prescribed by the federal Fair Labor Standards Act during the participant's postsecondary education.

(2) An agreement that, in addition to the base wage paid to the participant, the employer shall pay an additional sum to be held in trust to be applied toward the participant's postsecondary education.

(3) The participant's agreement to work for the employer for at least two (2) years following the completion of the participant's postsecondary education.

(b) The additional amount described in subsection (a)(2) must not be less than an amount determined by the department to be sufficient to provide payment of tuition expenses toward completion of not more than two (2) academic years at an institution of higher learning. The amount shall be held in trust for the benefit of the participant under rules adopted by the department. Payment into a fund approved under the federal Employee Retirement Income Security Act of 1974 for the benefit of the participant satisfies this requirement. The approved fund

must be specified in the agreement.

Sec. 10. (a) If a participant enters a certified program following the completion of the participant's secondary education, an agreement required under section 8 of this chapter must be modified to include the following:

(1) The employer's agreement to provide paid employment for the participant at a base wage that may not be less than the minimum wage prescribed by the federal Fair Labor Standards Act during the participant's postsecondary education.

(2) An agreement that, in addition to the base wage paid to the participant, the employer shall pay an additional sum to be applied toward the participant's postsecondary education. This amount may be paid directly to the participant's institution of higher learning on behalf of the participant.

(3) The participant's agreement to work for the employer for at least two (2) years following the completion of the participant's postsecondary education.

(b) The additional amount described in subsection (a)(2) must not be less than an amount determined by the department to be sufficient to provide payment of tuition expenses toward completion of not more than two (2) academic years at an institution of higher learning.

Sec. 11. If a participant does not complete the certified program contemplated by the agreement before entering a postsecondary education program, the money being held in trust for the participant's postsecondary education must be paid back to the employer.

Sec. 12. If a participant does not complete the certified program contemplated by an agreement described in section 8, 9, or 10 of this chapter after entering a postsecondary education program, any unexpended funds being held in trust for the participant's postsecondary education must be paid back to the employer. In addition, the participant shall repay to the employer amounts paid from the trust that were expended on the participant's behalf for the participant's postsecondary education.

Sec. 13. If a participant does not complete the two (2) year employment obligation required under an agreement described in section 8, 9, or 10 of this chapter, the participant shall repay to the

employer the amount paid by the employer toward the participant's postsecondary education expenses under this chapter.

Sec. 14. (a) The department may issue a grant from the state technology advancement and retention account established by IC 4-12-12-1 to an employer (as defined in IC 22-8-1.1-1) in an amount determined by the department.

(b) A grant issued under this section is subject to approval by the budget agency.

(c) The department shall adopt rules to implement this section.

SECTION 26. IC 22-4.1-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 9. Smart Partnership Grants

Sec. 1. The department shall establish guidelines for making grants to the Indiana schools smart partnership, which is established to create partnerships between schools and local businesses to make the curricula of math and science relevant to students.

Sec. 2. The department may make grants from the state technology advancement and retention account established by IC 4-12-12-1 to coordinating organizations and participating schools.

Sec. 3. A grant issued under this chapter is subject to approval by the budget agency.

SECTION 27. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 4-12-10, for the period beginning July 1, 2004, and ending June 30, 2005, grants of two hundred thousand dollars (\$200,000) shall be made from money in the state technology advancement and retention account established in IC 4-12-12-1 that is dedicated to the Indiana economic development partnership fund to the:

(1) East Central Indiana technology transfer program administered by Ball State University; and

(2) Southwestern Indiana technology transfer program administered by the University of Southern Indiana;

for their use in establishing and operating technology talent programs.

(b) This SECTION expires December 31, 2005.

SECTION 28. [EFFECTIVE JULY 1, 2004] (a) As used in this SECTION, "department" refers to the department of workforce

development.

(b) Notwithstanding IC 22-4.1-7-7, as added by this act, the department, in consultation with the department of education, shall adopt rules to implement IC 22-4.1-7, as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Any rules adopted under this SECTION must be adopted not later than September 1, 2004. A rule adopted under this SECTION expires on the earlier of:

(1) the date a rule is adopted by the department, in consultation with the department of education, under IC 4-22-2-24 through IC 4-22-2-36 to implement IC 22-4.1-7, as added by this act; or

(2) January 1, 2006.

(c) This SECTION expires December 31, 2007.

SECTION 29. An emergency is declared for this act.

P.L.97-2004
[S.106. Approved March 16, 2004.]

AN ACT to amend the Indiana Code concerning technical corrections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-7-26-2, AS AMENDED BY P.L.209-2003, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The election division shall develop and maintain a statewide voter registration file.

(b) ~~Subject to section 20 of this chapter,~~ Not later than January 1, 2004, the election division shall maintain the statewide voter registration file so that the file is accessible by the election division and county voter registration offices through a secure connection over the Internet.

(c) The statewide voter registration file must comply with the standards and requirements described in 42 U.S.C. 15483.

SECTION 2. IC 3-7-26-8, AS AMENDED BY P.L.209-2003, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Until a county has the capability to transmit the information over the Internet as required under subsection (b), the information required by section 7 of this chapter shall be provided on magnetic media or other machine readable form to the election division.

(b) ~~Subject to section 20 of this chapter,~~ Not later than January 1, 2004, a county voter registration office shall transmit the information required by section 7 of this chapter to the election division over the Internet, in a manner and using a method prescribed by the election division, through a secure connection to the statewide voter registration file.

(c) The commission shall prescribe a format to ensure the standardization and readability of the data provided under subsection

(a) or (b).

SECTION 3. IC 3-8-1-2, AS AMENDED BY P.L.66-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission, a county election board, or a town election board shall act if a candidate (or a person acting on behalf of a candidate in accordance with state law) has filed any of the following:

- (1) A declaration of candidacy under IC 3-8-2 or IC 3-8-5.
- (2) A request for ballot placement in a presidential primary under IC 3-8-3.
- (3) A petition of nomination or candidate's consent to nomination under IC 3-8-6.
- (4) A certificate of nomination under IC 3-8-5, IC 3-8-7, IC 3-10-2-15, or IC 3-10-6-12.
- (5) A certificate of candidate selection under IC 3-13-1 or IC 3-13-2.
- (6) A declaration of intent to be a write-in candidate under IC 3-8-2-2.5.
- (7) A contest to the denial of certification under IC 3-8-6-12.

(b) The commission has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the election division. Except for a filing under the jurisdiction of a town election board, a county election board has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the county election board, county voter registration office, or the circuit court clerk. A town election board has jurisdiction to act under this section with regard to any filing that was made with the county election board, the county voter registration office, or the circuit court clerk for nomination or election to a town office.

(c) Except as provided in subsection (e), before the commission or election board acts under this section, a registered voter of the election district that a candidate seeks to represent must file a sworn statement with the election division or election board:

- (1) questioning the eligibility of a candidate to seek the office; and
 - (2) setting forth the facts known to the voter concerning this question.
- (d) The eligibility of a write-in candidate or a candidate nominated

by a convention, petition, or primary may not be challenged under this section if the commission or board determines that all of the following occurred:

- (1) The eligibility of the candidate was challenged under this section before the candidate was nominated.
- (2) The commission or board conducted a hearing on the affidavit before the nomination.
- (3) This challenge would be based on substantially the same grounds as the previous challenge to the candidate.
- (e) Before the commission or election board can consider a contest to the denial of a certification under IC 3-8-6-12, a candidate (or a person acting on behalf of a candidate in accordance with state law) must file a sworn statement with the election division or election board:
 - (1) stating specifically the basis for the contest; and
 - (2) setting forth the facts known to the candidate supporting the basis for the contest.
- (f) Upon the filing of a sworn statement under subsection (c) or (e), the commission or election board shall determine the validity of the questioned:
 - (1) declaration of candidacy;
 - (2) declaration of intent to be a write-in candidate;
 - (3) request for ballot placement under IC 3-8-3;
 - (4) petition of nomination;
 - (5) certificate of nomination;
 - (6) certificate of candidate selection issued under IC 3-13-1-15 or IC 3-13-2-8; or
 - (7) denial of a certification under ~~IC 3-8-6-12~~; **IC 3-8-6-12**.

(g) The commission or election board shall deny a filing if the commission or election board determines that the candidate has not complied with the applicable requirements for the candidate set forth in the Constitution of the United States, the Constitution of the State of Indiana, or this title.

SECTION 4. IC 3-10-1-31, AS AMENDED BY P.L.209-2003, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(b) Except for unused ballots disposed of under IC 3-11-3-31, the circuit court clerk shall carefully preserve the ballots and other material and keep all seals intact for twenty-two (22) months, as required by 42 U.S.C. 1974, after which they may be destroyed unless:

- (1) an order issued under IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(c) This subsection applies before January 1, 2006. Upon delivery of the poll lists, the ~~the~~ county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) adding the registration of a voter under IC 3-7-48-8; or
- (4) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15843 and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (b).

(d) This subsection applies after December 31, 2005. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46; or
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon

completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (b).

(e) After the expiration of the period described in subsection (b), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

SECTION 5. IC 3-11-6.5-3.1, AS ADDED BY P.L.209-2003, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This section applies to money received under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) and deposited in the account established under section 2 of this chapter for those funds.

(b) Except as provided in subsection (c), money deposited in the account must be used to comply with the requirements of Title III of HAVA (42 U.S.C. 15481 through 15502).

(c) As authorized under 42 U.S.C. 15401(b), money deposited in the account may be used for other purposes authorized under Section 101 of HAVA (42 U.S.C. 15301) if the secretary of state, with the approval of the co-directors of the election division, files the certification required by Section 251(b)(2)(B) of HAVA (42 U.S.C. ~~15401(b)(2)(A))~~: **15401(b)(2)(B))**.

(d) If the secretary of state makes the certification described in subsection (c), the secretary of state, with the approval of the co-directors of the election division, may transfer amounts that do not in total exceed the amount described in Section 251(b)(2)(B) from the Title II account of the fund to the Section 101 account of the fund.

(e) In conformity with Section 254(a)(7) of HAVA (42 U.S.C. 15404), the state shall maintain expenditures by the state for activities funded by the payment of funds described by this section at a level that is not less than the level of those expenditures maintained by the state for the fiscal year ending June 30, 2000.

SECTION 6. IC 3-11-6.5-7.1, AS ADDED BY P.L.209-2003, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.1. (a) This section applies to money received under Section 102 of HAVA (42 U.S.C. 15302) and deposited in the account established under section 2 of this chapter for those funds.

(b) Money deposited in the account must be used for the purposes set forth in Section 102 of HAVA (42 U.S.C. 15302).

(c) As permitted under 42 U.S.C. 15302, a county may apply to receive reimbursement from the fund.

(d) To receive reimbursement or voting systems under this section, a county must file an application with the election division in the form required by the election division. The secretary of state, with the consent of the co-directors of the election division, shall review the application and make a recommendation to the budget committee regarding the application. If a county filed an application under section 3 of this chapter (**repealed**) not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.

(e) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement if the budget agency determines that the county has purchased a voting system to comply with Section 102 of HAVA and is eligible for reimbursement under this section.

(f) The budget agency, after review by the budget committee, shall approve a county's application for disbursement of voting systems to the county if the budget agency determines that the county is entitled to receive voting systems under this section to comply with Section 102 of HAVA.

(g) If a county's application for reimbursement is approved under this section, the secretary of state shall, subject to subsection ~~(j)~~; **(h)**, reimburse the county from the fund in an amount not more than the amount determined by STEP TWO of the following formula:

STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election.

STEP TWO: Multiply the number determined in STEP ONE by four thousand dollars (\$4,000).

(h) Payment of money from the fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

SECTION 7. IC 3-11-6.5-8, AS AMENDED BY P.L.209-2003, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies to

money received under Section 101 of HAVA (42 U.S.C. 15301) and deposited in the account established under section 2 of this chapter for those funds.

(b) Money deposited in the account must be used in accordance with the requirements applicable under Section 101 of HAVA (42 U.S.C. 15301).

(c) The money may be used with the approval of the co-directors of the election division for the following purposes:

(1) By the secretary of state for any purpose authorized by this title and permitted under 42 U.S.C. 15301.

(2) To reimburse counties for the purchase of new voting systems eligible for reimbursement under section 7.1 of this chapter, to the extent that money received and deposited under section 7.1 of this chapter is insufficient to replace all voting machine systems and punch card voting systems in Indiana.

(3) To reimburse counties for the upgrade or expansion of existing voting systems to comply with HAVA.

(d) As permitted under 42 U.S.C. 15301, a county may apply to receive reimbursement under subsection (c).

(e) To receive reimbursement under this section, a county must make an application to the election division in the form required by the election division. If the county filed an application under section 3 of this chapter (**repealed**) not later than January 31, 2003:

(1) the application may be amended to comply with this chapter;
or

(2) the county may file a new application under this section.

The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application.

(f) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this section if the budget agency determines that the application complies with the requirements for reimbursement under subsection (c)(2) or (c)(3).

(g) If a county's application is approved under subsection (c)(2), the secretary of state with the consent of the co-directors of the election division shall, subject to subsection (i), pay the county from the fund an amount not more than the amount determined by STEP TWO of the following formula:

STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election that cannot be replaced with funds available under section 7.1 of this chapter.

STEP TWO: Multiply the number determined in STEP ONE by four thousand dollars (\$4,000).

(h) If a county's application is approved under subsection (c)(3), the secretary of state with the consent of the co-directors of the election division shall, subject to subsection (i), pay the county from the fund in an amount to be determined by the secretary of state with the consent of the co-directors of the election division.

(i) Payment of money from the fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

SECTION 8. IC 3-11-8-15, AS AMENDED BY P.L.209-2003, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Persons other than:

- (1) members of a precinct election board;
- (2) poll clerks and assistant poll clerks;
- (3) election sheriffs;
- (4) deputy election commissioners;
- (5) pollbook holders;
- (6) watchers; ~~and~~
- (7) minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29; and
- (8) an assistant to a precinct election officer appointed under IC 3-6-6-39;

are not permitted in the polls during an election except for the purpose of voting.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 9. IC 3-11-15-13, AS AMENDED BY P.L.209-2003, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.** (a) To be approved by the commission for use in Indiana, a voting system shall meet the following standards:

(1) After December 31, 2005, the voting method used in each polling place must include a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. A county complies with the standards described in this subdivision if each polling place in the county has at least one (1) voting system equipped for individuals with disabilities that complies with the standards described in this subdivision.

(2) A voting system must meet the Voting System Standards approved by the Federal Election Commission on April 30, 2002.

(b) The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards described in subsection (a)(2). If the commission adopts rules under this subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (a)(2).

(c) This section expires January 1, 2006.

SECTION 10. IC 3-11-15-13.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.4. (a) This section does not apply to the purchase, lease, or lease-purchase of additional or replacement components of a voting system in use in a county before January 1, 2005.**

(b) The commission shall determine whether a voting system provides a practical and effective means for voters with disabilities to cast ballots in private.

(c) If the commission determines that any voting system meets the criteria described in subsection (b), a county may not purchase, lease, or lease-purchase any other voting system that does not meet the criteria described in subsection (b).

SECTION 11. IC 3-11-15-13.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: **Sec. 13.6. (a) This section applies only to a voting system purchased with funds made available under Title II of HAVA (42 U.S.C. 15321 through 15472) after December 31, 2006.**

(b) As required by 42 U.S.C. 15481, the voting system must comply with the Voting System Standards for disability access referred to in section 13.3 of this chapter and 42 U.S.C. 15481(a)(3) to be used in an election.

SECTION 12. IC 3-12-3-5, AS AMENDED BY P.L.263-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating machines, then a remake team composed of one (1) person from each of the major political parties of the county shall have the card prepared for processing so as to record accurately the intention of the voter insofar as it can be ascertained.

(b) If the ballot card voting system is designed to allow the counting and tabulation of votes by the precinct election board, the members of the remake team must be members of the precinct election board in which the ballot was cast.

(c) If necessary, a true, duplicate copy shall be made of the damaged ballot card in the presence of witnesses and substituted for the damaged card. Similarly, a duplicate ballot card shall be made of a defective card, not including the uncounted votes.

(d) This subsection applies to an absent uniformed services voter permitted to transmit an absentee ballot by fax under IC 3-11-4-6. To facilitate the transmittal and return of the voter's absentee ballot by fax, the county election board may provide the voter with a paper ballot rather than a ballot card. The paper ballot must conform with the requirements for paper ballots set forth in IC 3-10 and IC 3-11. After the voter returns the ballot by fax, a remake team appointed under this section shall prepare a ballot card for processing that accurately records the intention of the voter as indicated on the paper ballot. The ballot card created under this subsection must be marked and counted as a duplicate ballot under sections 6 through 7 of this chapter.

(e) If an automatic tabulating machine fails during the counting and tabulation of votes following the close of the polls, the county election board shall immediately arrange for the repair and proper functioning

of the system. The county election board may, by unanimous vote of its entire membership, authorize the counting and tabulation of votes for this election on an automatic tabulating machine approved for use in Indiana by the commission:

(1) until the repair and retesting of the malfunctioning machine; and

(2) whether or not the machine was tested under ~~IC 3-11-13-26~~.
IC 3-11-13-22.

SECTION 13. IC 4-3-3-2, AS AMENDED BY P.L.195-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** The surviving spouse of each individual who:

(1) serves as governor; and ~~who~~

(2) is entitled to a retirement benefit under section 1.1 of this chapter;

is entitled to an annual pension.

(b) The pension **to which a governor's surviving spouse is entitled under this section** shall be paid in equal monthly installments by the treasurer of state on warrant of the auditor of state after a claim has been made for the pension to the auditor by:

(1) the surviving spouse; or

(2) a person acting on ~~his~~ behalf **of the surviving spouse.**

(c) The annual pension **to which a governor's surviving spouse is entitled** under this section is equal to the following:

(1) For the surviving spouse of a governor who died before July 1, 1998, the greater of:

(A) the annual retirement benefit received by the surviving spouse during the year beginning July 1, 1998; or

(B) ten thousand dollars (\$10,000).

(2) For the surviving spouse of a governor who dies after June 30, 1998, the greater of:

(A) fifty percent (50%) of the annual retirement benefit that the governor to whom the surviving spouse was married was receiving or was entitled to receive on the date of the governor's death; or

(B) ten thousand dollars (\$10,000).

(d) The surviving spouse of ~~each individual who serves as a~~ governor must ~~elect to receive either (1) or (2) above and make the~~

election required under subsection (c)(1) or (c)(2). Once a surviving spouse has received any pension payment ~~has been received under this section~~, the election is irrevocable.

(e) ~~The A~~ **A governor's** surviving spouse is entitled to receive the pension **provided under this section** for ~~the remainder of his~~ life unless ~~he the surviving spouse~~ remarries.

(f) Notwithstanding any other law to the contrary, the pension **provided** under this section is in addition to any other retirement benefits a **governor's** surviving spouse is entitled to receive.

SECTION 14. IC 4-33-4-22, AS ADDED BY P.L.224-2003, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) The commission may not adopt a rule or resolution limiting the ordinary business hours in which a licensed owner that has implemented flexible scheduling under IC 4-33-6-21 may conduct gambling operations.

(b) This section may not be construed to limit the commission's power to: ~~enforce this article~~:

(1) ~~enforce this article~~ under IC 4-33-4-1(a)(6), IC 4-33-4-1(a)(7), or IC 4-33-4-8; or

(2) respond to an emergency, as determined by the commission.

SECTION 15. IC 4-33-5-1, AS AMENDED BY P.L.92-2003, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. An applicant for a license or an ~~operator~~ **operating** agent contract under this article must provide the following information to the commission:

(1) The name, business address, and business telephone number of the applicant.

(2) An identification of the applicant.

(3) The following information for an applicant that is not an individual:

(A) The state of incorporation or registration.

(B) The names of all corporate officers.

(C) The identity of the following:

(i) Any person in which the applicant has an equity interest of at least one percent (1%) of all shares. The identification must include the state of incorporation or registration if applicable. However, an applicant that has a pending registration statement filed with the Securities and Exchange

Commission is not required to provide information under this item.

(ii) The shareholders or participants of the applicant. An applicant that has a pending registration statement filed with the Securities and Exchange Commission is required to provide only the names of persons holding an interest of more than one percent (1%) of all shares.

(4) An identification of any business, including the state of incorporation or registration if applicable, in which an applicant or the spouse or children of an applicant has an equity interest of more than one percent (1%) of all shares.

(5) If the applicant has been indicted, been convicted, pleaded guilty or nolo contendere, or forfeited bail concerning a criminal offense other than a traffic violation under the laws of any jurisdiction. The applicant must include the following information under this subdivision:

(A) The name and location of the following:

(i) The court.

(ii) The arresting agency.

(iii) The prosecuting agency.

(B) The case number.

(C) The date and type of offense.

(D) The disposition of the case.

(E) The location and length of incarceration.

(6) If the applicant has had a license or certificate issued by a licensing authority in Indiana or any other jurisdiction denied, restricted, suspended, revoked, or not renewed. An applicant must provide the following information under this subdivision:

(A) A statement describing the facts and circumstances concerning the denial, restriction, suspension, revocation, or nonrenewal.

(B) The date each action described in clause (A) was taken.

(C) The reason each action described in clause (A) was taken.

(7) If the applicant has:

(A) filed or had filed against the applicant a proceeding in bankruptcy; or

(B) been involved in a formal process to adjust, defer, suspend, or work out the payment of a debt;

including the date of filing, the name and location of the court, and the case and number of the disposition.

(8) If the applicant has filed or been served with a complaint or notice filed with a public body concerning:

(A) a delinquency in the payment of; or

(B) a dispute over a filing concerning the payment of;
a tax required under federal, state, or local law, including the amount, type of tax, the taxing agency, and times involved.

(9) A statement listing the names and titles of public officials or officers of units of government and relatives of the public officials or officers who directly or indirectly:

(A) have a financial interest in;

(B) have a beneficial interest in;

(C) are the creditors of;

(D) hold a debt instrument issued by; or

(E) have an interest in a contractual or service relationship with;

an applicant.

(10) If an applicant for an operating agent contract or an owner's or a supplier's license has directly or indirectly made a political contribution, loan, donation, or other payment to a candidate or an office holder in Indiana not more than five (5) years before the date the applicant filed the application. An applicant must provide information concerning the amount and method of a payment described in this subdivision.

(11) The name and business telephone number of the attorney who will represent the applicant in matters before the commission.

(12) A description of a proposed or an approved riverboat gaming operation, including the following information:

(A) The type of boat.

(B) The home dock location.

(C) The expected economic benefit to local communities.

(D) The anticipated or actual number of employees.

(E) Any statements from the applicant concerning compliance with federal and state affirmative action guidelines.

(F) Anticipated or actual admissions.

(G) Anticipated or actual adjusted gross gaming receipts.

(13) A description of the product or service to be supplied by the applicant if the applicant has applied for a supplier's license.

(14) The following information from each licensee or **operator operating** agent involved in the ownership or management of gambling operations:

(A) An annual balance sheet.

(B) An annual income statement.

(C) A list of the stockholders or other persons having at least a one percent (1%) beneficial interest in the gambling activities of the person who has been issued the owner's license or **operator operating** agent contract.

(D) Any other information the commission considers necessary for the effective administration of this article.

SECTION 16. IC 4-33-13-1.5, AS AMENDED BY P.L.224-2003, SECTION 46, AND AS AMENDED BY P.L.92-2003, SECTION 54, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) This section applies only to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 *or* IC 4-33-6.5.

(b) A graduated tax is imposed on the adjusted gross receipts received from gambling games authorized under this article as follows:

(1) Fifteen percent (15%) of the first twenty-five million dollars (\$25,000,000) of adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year.

(2) Twenty percent (20%) of the adjusted gross receipts in excess of twenty-five million dollars (\$25,000,000) but not exceeding fifty million dollars (\$50,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(3) Twenty-five percent (25%) of the adjusted gross receipts in excess of fifty million dollars (\$50,000,000) but not exceeding seventy-five million dollars (\$75,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(4) Thirty percent (30%) of the adjusted gross receipts in excess of seventy-five million dollars (\$75,000,000) but not exceeding one hundred fifty million dollars (\$150,000,000) received during

the period beginning July 1 of each year and ending June 30 of the following year.

(5) Thirty-five percent (35%) of all adjusted gross receipts in excess of one hundred fifty million dollars (\$150,000,000).

The tax rates imposed under this section apply to adjusted gross receipts received beginning the date flexible scheduling is implemented under IC 4-33-6-21.

(c) The licensed owner or operating agent shall remit the tax imposed by this chapter to the department before the close of the business day following the day the wagers are made.

(d) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

(e) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensed owner or operating agent to file a monthly report to reconcile the amounts remitted to the department.

(f) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under IC 4-33-12.

(g) If a riverboat implements flexible scheduling during any part of a period beginning July 1 of each year and ending June 30 of the following year, the tax rate imposed on the adjusted gross receipts received while the riverboat implements flexible scheduling shall be computed as if the riverboat had engaged in flexible scheduling during the entire period beginning July 1 of each year and ending June 30 of the following year.

(h) If a riverboat:

(1) implements flexible scheduling during any part of a period beginning July 1 of each year and ending June 30 of the following year; and

(2) before the end of that period ceases to operate the riverboat with flexible scheduling;

the riverboat shall continue to pay a wagering tax at the tax rates imposed under subsection (b) until the end of that period as if the riverboat had not ceased to conduct flexible scheduling.

SECTION 17. IC 4-33-13-5, AS AMENDED BY P.L.224-2003, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a

historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars (\$33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e).

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A).

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund. In each state fiscal year beginning after June 30, 2003, the treasurer of state shall make the transfer required by this subdivision not later than the last business day of the month in which the tax revenue is remitted to the state for deposit in the state gaming fund. However, if tax revenue is received by the state on the last business day in a month, the treasurer of state may transfer the tax revenue to the property tax replacement fund in the immediately following month.

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter as follows:

(1) Thirty-seven and one half percent (37.5%) shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(2) Thirty-seven and one-half percent (37.5%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, at any time the balance in that fund exceeds twenty million dollars (\$20,000,000), the amount described in this subdivision shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(3) Five percent (5%) shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Ten percent (10%) shall be paid in equal amounts to each town that:

(A) is located in the county in which the riverboat docks; and

(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.

(5) Ten percent (10%) shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to

one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body:

(i) A town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(c) For each city and county receiving money under subsection (a)(2)(A) or (a)(2)(C), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat wagering taxes that:

- (1) exceeds a particular city or county's base year revenue; and
- (2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

(d) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the property tax replacement fund under subsection (a)(3) to the build Indiana fund an amount that when added

to the following may not exceed two hundred fifty million dollars (\$250,000,000):

- (1) Surplus lottery revenues under IC 4-30-17-3.
- (2) Surplus revenue from the charity gaming enforcement fund under IC 4-32-10-6.
- (3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the property tax replacement fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the property tax replacement fund from the transfers under subsection (a)(3) for the state fiscal year.

(e) Before August 15 of 2003 and each year thereafter, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. Except as provided in subsection (h), the county auditor shall distribute the money received by the county under this subsection as follows:

- (1) To each city located in the county according to the ratio the city's population bears to the total population of the county.
- (2) To each town located in the county according to the ratio the town's population bears to the total population of the county.
- (3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(f) Money received by a city, town, or county under subsection (e) or (h) may be used for any of the following purposes:

- (1) To reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5);
- (2) For deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for additional credits for property tax replacement in property tax increment allocation areas or debt repayment.

(3) To fund sewer and water projects, including storm water management projects.

(4) For police and fire pensions.

(5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

(g) This subsection does not apply to an entity receiving money under IC 4-33-12-6(c). Before September 15 of 2003 and each year thereafter, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the property tax replacement fund. The amount of the supplemental distribution is equal to the difference between the entity's base year revenue (as determined under IC 4-33-12-6) and the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6.

(h) This **section subsection** applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county under subsection (d) as follows:

(1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county.

SECTION 18. IC 5-2-9-8, AS AMENDED BY P.L.133-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A law enforcement agency that receives a copy of a protective order, no contact order, or workplace violence

restraining order shall enter the information received into the Indiana data and communication system (IDACS) computer under ~~IC 5-2-5-12~~ **IC 10-13-3-35** upon receiving a copy of the order.

SECTION 19. IC 5-10.3-5-5, AS AMENDED BY P.L.72-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The custodians must be banks or trust companies that are domiciled in the United States and approved by the Indiana department of financial institutions under IC 28-1-2-39 to:

- (1) act in a fiduciary capacity; and
- (2) manage custodial accounts;

in Indiana.

(b) The board is authorized to accept safekeeping receipts for securities held by the custodians. Each custodian must have a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last published report of condition for the bank or trust company and have physical custody of such securities. The state board of accounts is authorized to rely on safekeeping receipts from the custodian. The custodian may be authorized by the agreement to:

- (1) hold securities and other investments in the name of the fund, in the name of a nominee of the custodian, or in bearer form;
- (2) collect and receive income, interest, proceeds of sale, maturities, redemptions, and all other receipts from the securities and other investments;
- (3) deposit all ~~these the~~ receipts collected and received under subdivision (2) in a custodian account or checking account as instructed by the board; and**
- (4) reinvest ~~these the~~ receipts collected and received under subdivision (2) as directed by the board;**
- ~~(3)~~ **(5)** maintain accounting records and prepare reports which are required by the board and the state board of accounts; and
- ~~(4)~~ **(6)** perform other services for the board as are customary and appropriate for custodians.

(c) The custodian is responsible for all securities held in the name of its nominee for the fund.

SECTION 20. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.1-2003, SECTION 22, AND AS AMENDED BY P.L.245-2003, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment or new research and development equipment, or both, for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment or new research and development equipment, or both, that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment;

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment or new research and development equipment, or both, and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment or new research and development equipment, or both.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine

whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment or new research and development equipment, or both, is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment;

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment or new research and development equipment, or both.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), an owner of new

manufacturing equipment or new research and development equipment, or both, whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:

- (1) the assessed value of the new manufacturing equipment or new research and development equipment, or both, in the year of deduction under the appropriate table set forth in subsection (e); multiplied by
- (2) the percentage prescribed in the *appropriate* table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

- (1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

- (2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

- (3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

- (4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

- (5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

- (1) the deduction under this section as in effect on March 1, 2001; and
- (2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled

to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

- (1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or
- (2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

SECTION 21. IC 6-1.1-21-4, AS AMENDED BY P.L.245-2003, SECTION 19, AND AS AMENDED BY P.L.264-2003, SECTION 12, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

- (1) each county's total eligible property tax replacement amount for that year; plus
- (2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus
- (3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development

district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract

filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection (i), the department shall not distribute under subsection (b) and section 10 of this chapter the money attributable to the county's property reassessment fund if:

(1) by the date the distribution is scheduled to be made, ~~(1)~~ the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1 to the department of local government finance; ~~or~~

(2) *by the deadline under IC 36-2-9-20, the county auditor has not transmitted data as required under that section; or*

~~(2)~~ **(3) the county assessor has not forwarded to the department of local government finance the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a).**

(f) Except as provided in subsection (i), if the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b), the state board or the department shall not distribute under subsection (b) and section 10 of this chapter a part of the money attributable to the county's property reassessment fund. The portion not distributed is the

amount that bears the same proportion to the total potential distribution as the number of townships in the county for which data was not transmitted by ~~August 1~~ *October 1* as described in this section bears to the total number of townships in the county.

(g) Money not distributed ~~under subsection (e)~~ *for the reasons stated in subsection (e)(1) and (e)(2)* shall be distributed to the county when:

(1) the county auditor sends to the department of local government finance the certified statement required to be sent under IC 6-1.1-17-1; and

(2) *the county assessor forwards to the department of local government finance the approved exemption applications required to be forwarded under IC 6-1.1-11-8(a);*

with respect to which the failure to send *or forward* resulted in the withholding of the distribution under subsection (e).

(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).

(i) The restrictions on distributions under subsections (e) and (f) do not apply if the department of local government finance determines that:

(1) the failure of:

(A) a county auditor to send a certified statement; or

(B) *a county assessor to forward copies of all approved exemption applications;*

as described in subsection (e); or

(2) the failure of an official to transmit data as described in subsection (f);

is justified by unusual circumstances.

SECTION 22. IC 6-1.1-24-7, AS AMENDED BY P.L.1-2003, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) When real property is sold under this chapter, the purchaser at the sale shall immediately pay the amount of the bid to the county treasurer. The county treasurer shall apply the

payment in the following manner:

- (1) first, to the taxes, special assessments, penalties, and costs described in section 5(e) of this chapter;
- (2) second, to other delinquent property taxes in the manner provided in IC 6-1.1-23-5(b); and
- (3) third, to a separate "tax sale surplus fund".

(b) The:

- (1) owner of record of the real property at the time the tax deed is issued who is divested of ownership by the issuance of a tax deed; or
- (2) tax sale purchaser or purchaser's assignee, upon redemption of the tract or item of real property;

may file a verified claim for money which is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the claimant for the amount due.

(c) If the person described in subsection (b)(1) acquired the property from a delinquent taxpayer after the property was sold at a tax sale under this chapter, the county auditor may not issue a warrant to the person unless the person is named on a tax sale surplus fund disclosure form filed with the county auditor under ~~IC 32-2-8 (repealed)~~. **IC 32-21-8.**

(d) An amount deposited in the tax sale surplus fund shall be transferred by the county auditor to the county general fund and may not be disbursed under subsection (b) if it is not claimed within the three (3) year period after the date of its receipt.

(e) If an amount applied to taxes under this section is later paid out of the county general fund to the purchaser or the purchaser's successor due to the invalidity of the sale, all the taxes shall be reinstated and recharged to the tax duplicate and collected in the same manner as if the property had not been offered for sale.

(f) When a refund is made to any purchaser or purchaser's successor by reason of the invalidity of a sale, the county auditor shall, at the December settlement immediately following the refund, deduct the amount of the refund from the gross collections in the taxing district in which the land lies and shall pay that amount into the county general fund.

SECTION 23. IC 6-1.1-25-4.6, AS AMENDED BY P.L.170-2003,

SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.6. (a) After the expiration of the redemption period specified in section 4 of this chapter but not later than six (6) months after the expiration of the period of redemption:

- (1) the purchaser, the purchaser's assignee, the county, or the purchaser of the certificate of sale under IC 6-1.1-24 may; or
- (2) in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor shall, upon the request of the purchaser or the purchaser's assignee;

file a verified petition in the same court and under the same cause number in which the judgment of sale was entered asking the court to direct the county auditor to issue a tax deed if the real property is not redeemed from the sale. Notice of the filing of this petition shall be given to the same parties and in the same manner as provided in section 4.5 of this chapter, except that, if notice is given by publication, only one (1) publication is required. The notice required by this section is considered sufficient if the notice is sent to the address required by section ~~4.5(d)~~ 4.5(e) of this chapter. Any person owning or having an interest in the tract or real property may file a written objection to the petition with the court not later than thirty (30) days after the date the petition was filed. If a written objection is timely filed, the court shall conduct a hearing on the objection.

(b) Not later than sixty-one (61) days after the petition is filed under subsection (a), the court shall enter an order directing the county auditor (on the production of the certificate of sale and a copy of the order) to issue to the petitioner a tax deed if the court finds that the following conditions exist:

- (1) The time of redemption has expired.
- (2) The tract or real property has not been redeemed from the sale before the expiration of the period of redemption specified in section 4 of this chapter.
- (3) Except with respect to a petition for the issuance of a tax deed under a sale of the certificate of sale on the property under IC 6-1.1-24-6.1, all taxes and special assessments, penalties, and costs have been paid.
- (4) The notices required by this section and section 4.5 of this chapter have been given.

(5) The petitioner has complied with all the provisions of law entitling the petitioner to a deed.

The county auditor shall execute deeds issued under this subsection in the name of the state under the county auditor's name. If a certificate of sale is lost before the execution of a deed, the county auditor shall issue a replacement certificate if the county auditor is satisfied that the original certificate existed.

(c) Upon application by the grantee of a valid tax deed in the same court and under the same cause number in which the judgment of sale was entered, the court shall enter an order to place the grantee of a valid tax deed in possession of the real estate. The court may enter any orders and grant any relief that is necessary or desirable to place or maintain the grantee of a valid tax deed in possession of the real estate.

(d) Except as provided in subsections (e) and (f), if the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure of the petitioner under subsection (a) to fulfill the requirements of this section, the court shall order the return of the purchase price minus a penalty of twenty-five percent (25%) of the amount of the purchase price. Penalties paid under this subsection shall be deposited in the county general fund.

(e) Notwithstanding subsection (d), in all cases in which:

- (1) the petitioner under subsection (a) has made a bona fide attempt to comply with the statutory requirements under subsection (b) for the issuance of the tax deed but has failed to comply with these requirements; and
- (2) the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure to comply with these requirements;

the county auditor shall not execute the deed but shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, the purchaser's successors or assignees, or the purchaser of the certificate of sale under IC 6-1.1-24. The tract or item of real property, if it is then eligible for sale under IC 6-1.1-24, shall be placed on the delinquent list as an initial offering under IC 6-1.1-24-6.

(f) Notwithstanding subsections (d) and (e), the court shall not order the return of the purchase price if:

- (1) the purchaser or the purchaser of the certificate of sale under

IC 6-1.1-24 has failed to provide notice or has provided insufficient notice as required by section 4.5 of this chapter; and
(2) the sale is otherwise valid.

(g) A tax deed executed under this section vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law, and the lien of the state or a political subdivision for taxes and special assessments that accrue subsequent to the sale. However, the estate is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the tax sale. The deed is prima facie evidence of:

- (1) the regularity of the sale of the real property described in the deed;
- (2) the regularity of all proper proceedings; and
- (3) valid title in fee simple in the grantee of the deed.

(h) A tax deed issued under this section is incontestable except by appeal from the order of the court directing the county auditor to issue the tax deed filed not later than sixty (60) days after the date of the court's order.

SECTION 24. IC 6-1.5-5-1, AS AMENDED BY P.L.1-2003, SECTION 31, AND AS AMENDED BY P.L.245-2003, SECTION 22, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The Indiana board shall conduct impartial review of all appeals of final determinations of the department of local government finance made under the following:

- (1) IC 6-1.1-8.
- (2) IC 6-1.1-14-11.
- (3) IC 6-1.1-16.
- (4) IC 6-1.1-26-2.

(b) Each notice of final determination issued by the department of local government finance under a statute listed in subsection (a) must give the taxpayer notice of:

- (1) the opportunity for review under this section; and
- (2) the procedures the taxpayer must follow in order to obtain review under this section.

(c) Except as provided in subsection (e), in order to obtain a review

by the Indiana board under this section, the taxpayer must file a petition for review with the appropriate county assessor *within not later than* forty-five (45) days after the notice of the department of local government finance's action is given to the taxpayer.

(d) The county assessor shall transmit a petition for review under subsection (c) to the Indiana board *within not later than* ten (10) days after ~~it~~ the petition is filed.

(e) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-8-30, the public utility company must follow the procedures in IC 6-1.1-8-30.

(f) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-12.1-5.7(h) (repealed) IC 6-1.1-12.1-5.4(h), the person must follow the procedures in IC 6-1.1-12.1-5.7(h) (repealed); IC 6-1.1-12.1-5.4(h).

SECTION 25. IC 6-2.5-1-21, AS ADDED BY P.L.257-2003, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) "Lease" or "rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase or extend. "Lease" or "rental" does not include:

(1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(2) a transfer ~~or~~ of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price **that** does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; or

(3) providing tangible personal property along with an operator for a fixed or indeterminate period, if:

(A) the operator is necessary for the equipment to perform as designed; and

(B) the operator does more than maintain, inspect, or set up the tangible personal property.

(b) "Lease" or "rental" includes agreements covering motor vehicles and trailers in which the amount of consideration may be increased or

decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. 7701(h)(1).

(c) The definition of "lease" or "rental" set forth in this section applies throughout this article, regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the uniform commercial code (IC 26-1), or other provisions of federal, state, or local law.

(d) This section applies only to leases or rentals entered into after June 30, 2003, and has no retroactive effect on leases or rentals entered into before July 1, 2003.

SECTION 26. IC 6-2.5-6-13, AS AMENDED BY P.L.1-2003, SECTION 32, AND AS AMENDED BY P.L.269-2003, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. A person is entitled to a refund from the department if:

- (1) a retail merchant erroneously or illegally collects state gross retail or use taxes under this article from the person;
- (2) the retail merchant remits the taxes to the department;
- (3) the retail merchant does not refund the taxes to the person; and
- (4) the person properly applies for the refund under the refund provisions *of the gross income tax law* contained in ~~IC 6-2.1~~ *(repeated)* IC 6-8.1-9.

SECTION 27. IC 6-2.5-6-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.1. Notwithstanding the refund provisions of this article as incorporated from the gross income tax law (IC 6-2.1, repealed), a retail merchant is not entitled to a refund of state gross retail or use taxes unless the retail merchant refunds those taxes to the person from whom they were collected.**

SECTION 28. IC 6-2.5-6-14.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.2. (a) The department shall annually compile a list of retail merchants that sell tobacco products. The list must include the following information:**

- (1) On a county by county basis:
 - (A) the name of each retail merchant that sells tobacco

products in the county; and

(B) the business address of each location in the county at which a retail merchant sells tobacco products.

(2) The name and business address of each retail merchant that has begun to sell tobacco products since the previous report was compiled.

(3) The name and business address of each retail merchant that has ceased to sell tobacco products since the previous report was compiled.

(b) The department shall deliver each list prepared under this section to:

(1) the division of mental health and addiction; and

(2) the alcohol and tobacco commission.

(c) A retail merchant that sells tobacco products shall provide the department with the information required for the preparation of the list under this section.

(d) The department shall prescribe a form to be used in collecting information under this section from retail merchants that sell tobacco products. A form prescribed under this subsection may be a modified version of an existing form.

SECTION 29. IC 6-3.5-1.1-3.6, AS AMENDED BY P.L.1-2003, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.6. (a) This section applies only to a county having a population of more than six thousand (6,000) but less than eight thousand (8,000).

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

(1) finance, construct, acquire, improve, renovate, or equip the county courthouse; and

(2) repay bonds issued, or leases entered into, for constructing, acquiring, improving, renovating, and equipping the county courthouse.

(c) In addition to the rates permitted under section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (b). The tax imposed under this section may be imposed only until the later of the date on

which the financing on, acquisition, improvement, renovation, and equipping described in subsection (b) is completed or the date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid. The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty-two (22) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection (c). The tax rate may not be imposed for a time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping the county courthouse.

(e) The county treasurer shall establish a county ~~jail~~ **courthouse** revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the county ~~jail~~ **courthouse** revenue fund before a certified distribution is made under section 11 of this chapter.

(f) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for purposes described in subsection (b).

(g) A county described in subsection (a) possesses unique economic development challenges due to:

- (1) the county's heavy agricultural base;
- (2) the presence of a large amount of state owned property in the county that is exempt from property taxation; and
- (3) recent obligations of the school corporation in the county that have already increased property taxes in the county and imposed additional property tax burdens on the county's agricultural base.

Maintaining low property tax rates is essential to economic development. The use of county adjusted gross income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and

equipping described in subsection (b), rather than the use of property taxes, promotes that purpose.

(h) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after:

(1) the redemption of the bonds issued; or

(2) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 30. IC 6-3.5-6-13, AS AMENDED BY P.L.224-2003, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A county income tax council of a county in which the county option income tax is in effect may adopt an ordinance to increase the percentage credit allowed for homesteads in its county under IC 6-1.1-20.9-2.

(b) A county income tax council may not increase the percentage credit allowed for homesteads by an amount that exceeds the amount determined in the last STEP of the following formula:

STEP ONE: Determine the amount of the sum of all property tax levies for all taxing units in a county which are to be paid in the county in 2003 as reflected by the auditor's abstract for the 2002 assessment year, adjusted, however, for any postabstract adjustments which change the amount of the levies.

STEP TWO: Determine the amount of the county's estimated property tax replacement under IC 6-1.1-21-3(a) for property taxes first due and payable in 2003.

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

STEP FOUR: Determine the amount of the county's total county levy (as defined in IC 6-1.1-21-2(g)) for property taxes first due and payable in 2003.

STEP FIVE: Subtract the STEP FOUR amount from the STEP ONE amount.

STEP SIX: Subtract the STEP FIVE result from the STEP THREE result.

STEP SEVEN: Divide the STEP THREE result by the STEP SIX result.

STEP EIGHT: Multiply the STEP SEVEN result by eight-hundredths (0.08).

STEP NINE: Round the STEP EIGHT product to the nearest one-thousandth (**0.001**) and express the result as a percentage.

(c) The increase of the homestead credit percentage must be uniform for all homesteads in a county.

(d) In the ordinance that increases the homestead credit percentage, a county income tax council may provide for a series of increases or decreases to take place for each of a group of succeeding calendar years.

(e) An ordinance may be adopted under this section after January 1 but before June 1 of a calendar year.

(f) An ordinance adopted under this section takes effect on January 1 of the next succeeding calendar year.

(g) Any ordinance adopted under this section for a county is repealed for a year if on January 1 of that year the county option income tax is not in effect.

SECTION 31. IC 6-3.5-7-5, AS AMENDED BY P.L.224-2003, SECTION 254, AND AS AMENDED BY P.L.42-2003, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), ~~and~~ (p), and (r) the county economic development income tax may be imposed at a rate

of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), or (p), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g) or (p), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at

a rate of:

- (A) fifteen-hundredths percent (0.15%);
- (B) two-tenths percent (0.2%); or
- (C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent

(1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

(r) *This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:*

(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

~~(r)~~ (s) *Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.*

SECTION 32. IC 6-3.5-7-12, AS AMENDED BY P.L.224-2003, SECTION 255, AND AS AMENDED BY P.L.255-2003, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Except as provided in sections 23, 25, ~~and~~ 26, ~~and~~ 27 of this chapter, the county auditor shall distribute in the manner specified in this section the certified distribution to the county.

(b) Except as provided in subsections (c) and (h) and sections 15 and 25 of this chapter, the amount of the certified distribution that the county and each city or town in a county is entitled to receive during May and November of each year equals the product of the following:

- (1) The amount of the certified distribution for that month; multiplied by
- (2) A fraction. The numerator of the fraction equals the sum of the following:

(A) Total property taxes that are first due and payable to the county, city, or town during the calendar year in which the month falls; plus

(B) For a county, an amount equal to

~~(i) the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund. *plus*~~
~~(ii) after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004; adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3; minus the current uninsured parents program property tax levy imposed by the county.~~

The denominator of the fraction equals the sum of the total property taxes that are first due and payable to the county and all cities and towns of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and

welfare administration fund. *and after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county.*

(c) This subsection applies to a county council or county income tax council that imposes a tax under this chapter after June 1, 1992. The body imposing the tax may adopt an ordinance before July 1 of a year to provide for the distribution of certified distributions under this subsection instead of a distribution under subsection (b). The following apply if an ordinance is adopted under this subsection:

- (1) The ordinance is effective January 1 of the following year.
- (2) Except as provided in sections 25 and 26 of this chapter, the amount of the certified distribution that the county and each city and town in the county is entitled to receive during May and November of each year equals the product of:
 - (A) the amount of the certified distribution for the month; multiplied by
 - (B) a fraction. For a city or town, the numerator of the fraction equals the population of the city or the town. For a county, the numerator of the fraction equals the population of the part of the county that is not located in a city or town. The denominator of the fraction equals the sum of the population of all cities and towns located in the county and the population of the part of the county that is not located in a city or town.
- (3) The ordinance may be made irrevocable for the duration of specified lease rental or debt service payments.

(d) The body imposing the tax may not adopt an ordinance under subsection (c) if, before the adoption of the proposed ordinance, any of the following have pledged the county economic development income tax for any purpose permitted by IC 5-1-14 or any other statute:

- (1) The county.
- (2) A city or town in the county.
- (3) A commission, a board, a department, or an authority that is authorized by statute to pledge the county economic development income tax.

(e) The department of local government finance shall provide each county auditor with the fractional amount of the certified distribution that the county and each city or town in the county is entitled to receive under this section.

(f) Money received by a county, city, or town under this section shall be deposited in the unit's economic development income tax fund.

(g) Except as provided in subsection (b)(2)(B), in determining the fractional amount of the certified distribution the county and its cities and towns are entitled to receive under subsection (b) during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.

(h) In a county having a consolidated city, only the consolidated city is entitled to the certified distribution, subject to the requirements of sections 15, 25, and 26 of this chapter.

SECTION 33. IC 6-3.5-7-26, AS AMENDED BY P.L.1-2003, SECTION 46, AND AS AMENDED BY P.L.272-2003, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) This section applies only to homestead credits for property taxes first due and payable after calendar year 2006.

(b) For purposes of this section, "adopting entity" means: ~~the entity that:~~

- (1) ~~the entity that~~ adopts an ordinance under IC 6-1.1-12-41(f); or
- (2) any other entity that may impose a county economic development income tax under section 5 of this chapter.

(c) An adopting entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). An adopting entity that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. An ordinance must be adopted under this subsection after January 1 but before April 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

- (1) first applies to the certified distribution described in section 16(c) of this chapter made in the later of the calendar year that immediately succeeds the calendar year in which the ordinance is

adopted or calendar year 2007; and

(2) must specify that the certified distribution must be used *for the purpose to provide for*:

(A) *uniformly applied increased homestead credits as provided in subsection ~~(e)~~ (f); or*

(B) *allocated increased homestead credits as provided in subsection (h).*

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 25 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

(1) retained by the county auditor under subsection (g); and

(2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the adopting entity shall use the certified distribution described in section 16(c) of this chapter to increase the *percentage of the* homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from the statewide deduction for inventory under IC 6-1.1-12-42.

(f) *If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(2)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:*

(1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;

(2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and

(3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

~~(f)~~ (g) The increased percentage of homestead credit determined by the county auditor under subsection ~~(e)~~ (f) applies uniformly in the county in the calendar year for which the increased percentage is determined.

(h) If the imposing entity specifies the application of allocated increased homestead credits under subsection (c)(2)(B), the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and*
- (2) an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-42 in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-42 in the county for the immediately preceding year's assessment date.*

~~(g)~~ (i) The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

- (1) as if the money were from property tax collections; and
- (2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

SECTION 34. IC 6-3.5-7-27, AS ADDED BY P.L.224-2003, SECTION 257, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) This section applies to a county that:

- (1) operates a courthouse that is subject to an order that:
 - (A) is issued by a federal district court;
 - (B) applies to an action commenced before January 1, 2003; and
 - (C) requires the county to comply with the ~~American~~ **federal Americans** with Disabilities Act; and
- (2) has insufficient revenues to finance the construction, acquisition, improvement, renovation, equipping, and operation of the courthouse facilities and related facilities.
- (b) A county described in this section possesses unique fiscal

challenges in financing, renovating, equipping, and operating the county courthouse facilities and related facilities because the county consistently has one ~~has one~~ of the highest unemployment rates in Indiana. Maintaining low property tax rates is essential to economic development in the county. The use of economic development income tax revenues under this section for the purposes described in subsection (c) promotes that purpose.

(c) In addition to actions authorized by section 5 of this chapter, a county council may, using the procedures set forth in this chapter, adopt an ordinance to impose an additional county economic development income tax on the adjusted gross income of county taxpayers. The ordinance imposing the additional tax must include a finding that revenues from additional tax are needed to pay the costs of:

- (1) constructing, acquiring, improving, renovating, equipping, or operating the county courthouse or related facilities;
- (2) repaying any bonds issued, or leases entered into, for constructing, acquiring, improving, renovating, equipping, or operating the county courthouse or related facilities; and
- (3) economic development projects described in the county's capital improvement plan.

(d) The tax rate imposed under this section may not exceed twenty-five hundredths percent (0.25%).

(e) If the county council adopts an ordinance to impose an additional tax under this section, the county auditor shall immediately send a certified copy of the ordinance to the department by certified mail. The county treasurer shall establish a county facilities revenue fund to be used only for the purposes described in subsection (c)(1) and (c)(2). The amount of county economic development income tax revenues derived from the tax rate imposed under this section that are necessary to pay the costs described in subsection (c)(1) and (c)(2) shall be deposited into the county facilities revenue fund before a certified distribution is made under section 12 of this chapter. The remainder shall be deposited into the economic development income tax funds of the county's units.

(f) County economic development income tax revenues derived from the tax rate imposed under this section may not be used for purposes other than those described in this section.

(g) County economic development income tax revenues derived

from the tax rate imposed under this section that are deposited into the county facilities revenue fund may not be considered by the department of local government finance in determining the county's ad valorem property tax levy for an ensuing calendar year under IC 6-1.1-18.5.

(h) Notwithstanding section 5 of this chapter, ~~and an~~ ordinance may be adopted under this section at any time. If the ordinance is adopted before June 1 of a year, a tax rate imposed under this section takes effect July 1 of that year. If the ordinance is adopted after May 31 of a year, a tax rate imposed under this section takes effect on the January 1 immediately following adoption of the ordinance.

(i) For a county adopting an ordinance before June 1 in a year, in determining the certified distribution under section 11 of this chapter for the calendar year beginning with the immediately following January 1 and each calendar year thereafter, the department shall take into account the certified ordinance mailed to the department under subsection (e). For a county adopting an ordinance after May 31, the department shall issue an initial or ~~a~~ revised certified distribution for the calendar year beginning with the immediately following January 1. Except for a county adopting an ordinance after May 31, a county's certified distribution shall be distributed on the dates specified under section 16 of this chapter. In the case of a county adopting an ordinance after May 31, the county, beginning with the calendar year beginning on the immediately following January 1, shall receive the entire certified distribution for the calendar year on November 1 of the year.

(j) Notwithstanding any other law, funds accumulated from the county economic development income tax imposed under this section and deposited into the ~~the~~ county facilities revenue fund or any other revenues of the county may be deposited into a nonreverting fund of the county to be used for operating costs of the courthouse facilities, juvenile detention facilities, or related facilities. Amounts in the county nonreverting fund may not be used by the department of local government finance to reduce the county's ad valorem property tax levy for an ensuing calendar year under IC 6-1.1-18.5.

SECTION 35. IC 8-6-15-2, AS ADDED BY P.L.87-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department shall designate an abandoned or unused railroad grade crossing ~~under IC 9-21-12-5. as~~ **abandoned or unused.**

SECTION 36. IC 8-10-1-12, AS AMENDED BY P.L.271-2003, SECTION 12, AS AMENDED BY P.L.224-2003, SECTION 212, AND AS AMENDED BY P.L.165-2003, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the *following*:

- (1) Acquisition of ~~the following~~ ~~(1)~~ land including lands under water and riparian rights, or options for the purchase of such land for a port *or project* site, and incidental expenses incurred in connection with such acquisition.
- (2) Studies in connection with the port *or project*.
- (3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation.
- (4) ~~(5)~~ Transfers to the fund established by IC 14-13-2-19 to carry out the purposes of IC 14-13-2.
- (5) ~~(4)~~ Administrative expenses of the commission.

The fund shall be held in the name of the Indiana port commission, shall be administered by the commission, and all expenditures therefrom shall be made by the commission, subject, however, to the approval by governor and the state budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others. ~~provided~~, However, ~~that~~ not to exceed one hundred thousand dollars (\$100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port *or project* site, and incidental expenses incurred in

connection with such acquisition.

(b) Upon the sale of *port* revenue bonds for any port *or* project, the funds expended from the Indiana port fund in connection with the development of such *port or* project and any obligation or expense incurred by the commission for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such *port or* project shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 37. IC 9-17-3-3, AS AMENDED BY P.L.268-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is otherwise transferred, the person who holds the certificate of title must do the following:

(1) Endorse on the certificate of title an assignment of the certificate of title with warranty of title, in a form printed on the certificate of title, with a statement describing all liens or encumbrances on the vehicle.

(2) Except as provided in subdivisions (3) and (4), deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(3) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or transfer.

(4) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle, if all of the following conditions exist:

(A) The seller or transferor is a vehicle dealer licensed by the state under IC 9-23.

(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.

(C) The vehicle dealer reasonably believes that it will be able to deliver the certificate of title, without a lien or an

encumbrance on the certificate of title, within the twenty-one (21) day period.

(D) The vehicle dealer provides the purchaser or transferee with an affidavit under section 3.1 of this chapter.

(E) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(3) or (a)(4) at the time of the sale.

(c) ~~For purposes of this subsection "timely deliver", with respect to a third party, means to deliver with a postmark dated or hand delivered to the purchaser or transferee not more than ten (10) business days after there is no obligation secured by the vehicle.~~ A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

(1) One hundred dollars (\$100) for the first violation.

(2) Two hundred fifty dollars (\$250) for the second violation.

(3) Five hundred dollars (\$500) for all subsequent violations.

Payment shall be made to the bureau and deposited in the state general fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser.

(d) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a postmark dated or hand delivered not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is

entitled to claim against the third party one hundred dollars (\$100). If:

- (1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer; and
- (2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;

the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

~~(d)~~ (e) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle must deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

~~(e)~~ (f) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.

~~(f)~~ (g) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within five (5) days after the date of sale.

SECTION 38. IC 9-19-14.5-1, AS AMENDED BY P.L.205-2003, SECTION 2, AND AS AMENDED BY P.L.236-2003, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A privately owned vehicle belonging to a *certified paramedic, certified emergency medical technician-intermediate, certified emergency medical technician-basic advanced, certified emergency medical technician, certified emergency medical service driver, or certified emergency medical service first responder* while traveling in the line of duty in connection with emergency medical services activities may display *flashing or revolving* green lights, subject to the following restrictions and conditions:

- (1) The lights may not have a light source less than fifty (50) candlepower.
- (2) All lights shall be placed on the top of the vehicle.

(3) Not more than two (2) green lights may be displayed on a vehicle and each light must be of the flashing or revolving type and visible at three hundred sixty (360) degrees.

(4) The lights must consist of a lamp with a green lens and not of an uncolored lens with a green bulb. However, the revolving lights may contain multiple bulbs.

(5) The green lights may not be a part of the regular head lamps displayed on the vehicle.

(6) For a person *to be* authorized under this chapter to display a *flashing or revolving* green light on the person's vehicle, the person must first secure a written permit from the director of the state emergency management agency to use the light. The permit must be carried by the person when the light is displayed.

SECTION 39. IC 9-24-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The state and any health care provider (as defined by ~~IC 34-18-2-15~~) **IC 34-18-2-14**) are not liable for damages alleged to have occurred as a result of an individual making an anatomical gift under this chapter.

SECTION 40. IC 10-11-2-29, AS ADDED BY P.L.2-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. The superintendent may assign a special police employee described in section 28(b) of this chapter to serve as a gaming agent under an agreement with the Indiana gaming commission under ~~IC 4-33-4-3.6~~ **IC 4-33-4-3.5**.

SECTION 41. IC 10-13-2-5, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The division, under the supervision and direction of the superintendent and in accordance with the rules adopted under this chapter, shall do the following:

(1) Collect data necessary for the accomplishment of the purposes of this chapter from all persons and agencies mentioned in section 6 of this chapter.

(2) Prepare and distribute to all the persons and agencies the forms to be used in reporting data to the division. The forms also must provide for items of information needed by federal bureaus, agencies, or departments engaged in the development of national criminal statistics.

(3) Prescribe the form and content of records to be kept by the

persons and agencies to ensure the correct reporting of data to the division.

(4) Instruct the persons and agencies in the installation, maintenance, and use of records and equipment and in the manner of reporting to the division.

(5) Tabulate, analyze, and interpret the data collected.

(6) Supply data, upon request, to federal bureaus, agencies, or departments engaged in collecting and analyzing national criminal statistics.

(7) Present the following to the governor:

(1) (A) Before July 1 of each year, a printed report containing the criminal statistics of the preceding calendar year.

(2) (B) At other times the superintendent considers necessary or the governor requests, reports on public aspects of criminal statistics in a sufficiently general distribution for public enlightenment.

(b) The division may not obtain data under this chapter except that which is a public record, and all laws regulating privacy or restricting use of the data apply to any data collected.

(c) The division may accept data and reports from agencies other than those required to report under this chapter if the data and reports are consistent with the purposes of this chapter.

SECTION 42. IC 10-13-3-36, AS AMENDED BY P.L.138-2003, SECTION 2, AS AMENDED BY P.L.158-2003, SECTION 1, AND AS AMENDED BY P.L.261-2003, SECTION 12, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

(1) that has been in existence for at least ten (10) years; and

(2) that:

(A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;

(B) is a home health agency licensed under IC 16-27-1;

(C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39);

~~or~~

(D) is a supervised group living facility licensed under IC 12-28-5;

(E) is an area agency on aging designated under IC 12-10-1;

(F) is a community action agency (as defined in IC 12-14-23-2);

(G) is the owner or operator of a hospice program licensed under IC 16-25-3; or

(H) is a community mental health center (as defined in IC 12-7-2-38).

(b) *Except as provided in subsection (d), the department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.*

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic school.

(d) As used in this subsection, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of state government, including the executive and judicial branches of state government, the principal secretary of the senate, the principal clerk of the house of representatives, the executive director of the legislative services agency, a state elected official's office, or a body corporate and politic, but does not include a state educational institution (as defined in IC 20-12-0.5-1). The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made:

(1) by a state agency; and

(2) through the computer gateway that is administered by the intelenet commission under IC 5-21-2 and known as accessIndiana.

~~(d)~~ (e) *The department may not charge a fee for responding to a*

request for the release of a limited criminal history record made by the health professions bureau established by IC 25-1-5-3 if the request is:

- (1) made through the computer gateway that is administered by the intelenet commission under IC 5-21-2 and known as accessIndiana; and*
- (2) part of a background investigation of a practitioner or an individual who has applied for a license issued by a board (as defined in IC 25-1-9-1).*

SECTION 43. IC 10-17-10-1, AS ADDED BY P.L.2-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. If:

- (1) a person: ~~who dies~~:
 - (A) has served as a member of the armed forces of the United States as a soldier, sailor, or marine in the army, air force, or navy of the United States or as a member of the women's components of the army, air force, or navy of the United States, is a resident of Indiana, and **dies** while a member of the armed forces and before discharge from the armed forces or after receiving an honorable discharge from the armed forces; or
 - (B) is the spouse or surviving spouse of a person described in clause (A) **who and** is a resident of Indiana; and
- (2) a claim is filed for a burial allowance:
 - (A) by an interested person with the board of commissioners of the county of the residence of the deceased person; and
 - (B) stating the fact:
 - (i) of the service, death, and discharge if discharged from service before death; and
 - (ii) that the body has been buried in a decent and respectable manner in a cemetery or burial ground;

the board of commissioners shall hear and determine the claim like other claims and, if the facts averred are found to be true, shall allow the claim ~~of in an amount set by ordinance. However, the amount of the allowance may not be more than one hundred thousand dollars (\$100) for service rendered and material furnished in care of the body and where necessary an amount of not more than twenty-five dollars (\$25) for a place of burial of the body.~~ **(\$1,000).**

SECTION 44. IC 10-17-10-2, AS ADDED BY P.L.2-2003,

SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2. (a) Not more than one (1) claim **for a burial allowance** may be allowed for a decedent who qualifies under this chapter.

(b) The total sum of the claim filed and for which allowances must be made **shall be set by ordinance and** may not exceed one ~~hundred thousand~~ dollars (~~\$100~~). ~~However, if the federal government provides a marker for the grave of the person, the board of commissioners shall make a further allowance of not more than one hundred dollars (\$100) for setting of the marker. (\$1,000).~~

SECTION 45. IC 10-17-10-4, AS ADDED BY P.L.2-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4. Before a person enters into a contract to set a grave marker provided by the federal government ~~as~~ **for the grave of a person** described in section ~~2(b)~~ **1(1)** of this chapter with a person who receives the grave marker from the federal government or the person's representative, the person who will set the grave marker must disclose the following information to the person who receives the grave marker or the person's representative:

(1) The price of the least expensive installation procedure that the person who will set the grave marker will charge and a description of the goods and services included in the procedure.

(2) The prices of any other installation procedures or options that may be performed or provided by the person who will set the grave marker and a description of the goods and services included in the procedures or options.

SECTION 46. IC 11-13-4-3, AS AMENDED BY P.L.110-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The compact administrator selected by the state council under ~~IC 11-13-4-5-3~~ **IC 11-13-4.5** is the administrator for probationers participating in the interstate compact for the supervision of parolees and probationers under this chapter and under IC 11-13-5.

(b) The judicial conference of Indiana may establish a staff position within the Indiana judicial center to which the duties of the compact administrator may be delegated.

(c) The judicial conference of Indiana shall adopt rules under IC 4-22-2 prescribing duties and procedures for administering

probationers participating in the interstate compact under this chapter and under IC 11-13-5.

SECTION 47. IC 12-7-2-76, AS AMENDED BY P.L.120-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 76. (a) "Eligible individual", for purposes of IC 12-10-10, has the meaning set forth in IC 12-10-10-4.

(b) "Eligible individual" has the meaning set forth in IC 12-14-18-1.5 for purposes of the following:

- (1) IC 12-10-6.
- (2) IC 12-14-2.
- (3) IC 12-14-18.
- (4) IC 12-14-19.
- (5) IC 12-15-2.
- (6) IC 12-15-3.
- (7) IC 12-16-3.5.
- ~~(8) IC 12-16-1-3.~~
- ~~(9)~~ (8) IC 12-17-1.
- ~~(10)~~ (9) IC 12-20-5.5.

SECTION 48. IC 12-7-2-103.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 103.3. "Health maintenance organization", for purposes of IC 12-15-39.6, has the meaning set forth in IC 27-13-1-19.**

SECTION 49. IC 12-7-2-104.5, AS AMENDED BY P.L.120-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 104.5. "Holocaust victim's settlement payment" has the meaning set forth in IC 12-14-18-1.7 for purposes of the following:

- (1) IC 12-10-6.
- (2) IC 12-14-2.
- (3) IC 12-14-18.
- (4) IC 12-14-19.
- (5) IC 12-15-2.
- (6) IC 12-15-3.
- (7) IC 12-16-3.5.
- ~~(8) IC 12-16-1-3.~~
- ~~(9)~~ (8) IC 12-17-1.
- ~~(10)~~ (9) IC 12-20-5.5.

SECTION 50. IC 12-10-11.5-6, AS AMENDED BY HEA 1032-2004, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The office of the secretary of family and social services shall annually determine any state savings generated by home and community based services under this chapter by reducing the use of institutional care.

(b) The secretary shall annually report to the governor, the budget agency, the budget committee, the select **joint** commission on Medicaid oversight, and the executive director of the legislative services agency the savings determined under subsection (a). A report under this subsection to the executive director of the legislative services agency must be in an electronic format under IC 5-14-6.

(c) Savings determined under subsection (a) may be used to fund the state's share of additional home and community based Medicaid waiver slots.

SECTION 51. IC 12-15-35-28, AS AMENDED BY P.L.184-2003, SECTION 7, AND AS AMENDED BY P.L.193-2003, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) The board has the following duties:

(1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any office approval that is required by the federal Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations.

(2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.

(3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.

(4) The development, selection, application, and assessment of interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.

(5) The publication of an annual report that must be subject to public comment before issuance to the federal Department of Health and Human Services and to the Indiana legislative council by December 1 of each year. **The report to the legislative council must be submitted in an electronic format under IC 5-14-6.**

(6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies, including the following:

- (A) The Indiana board of pharmacy.
- (B) The medical licensing board of Indiana.
- (C) The SURS staff.

(7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.

(8) The publication and dissemination of educational information to physicians and pharmacists regarding the board and the DUR program, including information on the following:

- (A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.
- (B) Potential or actual severe or adverse reactions to drugs.
- (C) Therapeutic appropriateness.
- (D) Overutilization or underutilization.
- (E) Appropriate use of generic drugs.
- (F) Therapeutic duplication.
- (G) Drug-disease contraindications.
- (H) Drug-drug interactions.
- (I) Incorrect drug dosage and duration of drug treatment.
- (J) Drug allergy interactions.
- (K) Clinical abuse and misuse.

(9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual

physicians, pharmacists, or recipients.

(10) The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 483.60.

(11) The research, development, and approval of a preferred drug list for:

- (A) Medicaid's fee for service program;
- (B) Medicaid's primary care case management program; and
- (C) the primary care case management component of the children's health insurance program under IC 12-17.6;

in consultation with the therapeutics committee.

(12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.

(13) The preparation and submission of a report concerning the preferred drug list at least two (2) times per year to the select joint commission on Medicaid oversight established by IC 2-5-26-3.

(14) The collection of data reflecting prescribing patterns related to treatment of children diagnosed with attention deficit disorder or attention deficit hyperactivity disorder.

(15) Advising the Indiana comprehensive health insurance association established by IC 27-8-10-2.1 concerning implementation of chronic disease management and pharmaceutical management programs under IC 27-8-10-3.5.

(b) The board shall use the clinical expertise of the therapeutics committee in developing a preferred drug list. The board shall also consider expert testimony in the development of a preferred drug list.

(c) In researching and developing a preferred drug list under subsection (a)(11), the board shall do the following:

- (1) Use literature abstracting technology.
- (2) Use commonly accepted guidance principles of disease management.
- (3) Develop therapeutic classifications for the preferred drug list.
- (4) Give primary consideration to the clinical efficacy or appropriateness of a particular drug in treating a specific medical condition.
- (5) Include in any cost effectiveness considerations the cost

implications of other components of the state's Medicaid program and other state funded programs.

(d) Prior authorization is required for coverage under a program described in subsection (a)(11) of a drug that is not included on the preferred drug list.

(e) The board shall determine whether to include a single source covered outpatient drug that is newly approved by the federal Food and Drug Administration on the preferred drug list not later than sixty (60) days after the date *on which the manufacturer notifies the board in writing* of the drug's approval. However, if the board determines that there is inadequate information about the drug available to the board to make a determination, the board may have an additional sixty (60) days to make a determination from the date that the board receives adequate information to perform the board's review. Prior authorization may not be automatically required for a single source drug that is newly approved by the federal Food and Drug Administration, and that is:

(1) in a therapeutic classification:

(A) that has not been reviewed by the board; and

(B) for which prior authorization is not required; or

(2) the sole drug in a new therapeutic classification that has not been reviewed by the board.

(f) The board may not exclude a drug from the preferred drug list based solely on price.

(g) The following requirements apply to a preferred drug list developed under subsection (a)(11):

(1) *Except as provided by IC 12-15-35.5-3(b) and IC 12-15-35.5-3(c)*, the office or the board may require prior authorization for a drug that is included on the preferred drug list under the following circumstances:

(A) To override a prospective drug utilization review alert.

(B) To permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under IC 16-42-22-10.

(C) To prevent fraud, abuse, waste, overutilization, or inappropriate utilization.

(D) To permit implementation of a disease management program.

(E) To implement other initiatives permitted by state or federal

law.

(2) All drugs described in IC 12-15-35.5-3(b) must be included on the preferred drug list.

(3) The office may add a *new single source* drug that has been approved by the federal Food and Drug Administration to the preferred drug list without prior approval from the board.

(4) The board may add a *new single source* drug that has been approved by the federal Food and Drug Administration to the preferred drug list.

(h) At least two (2) times each year, the board shall provide a report to the select joint commission on Medicaid oversight established by IC 2-5-26-3. The report must contain the following information:

(1) The cost of administering the preferred drug list.

(2) Any increase in Medicaid physician, laboratory, or hospital costs or in other state funded programs as a result of the preferred drug list.

(3) The impact of the preferred drug list on the ability of a Medicaid recipient to obtain prescription drugs.

(4) The number of times prior authorization was requested, and the number of times prior authorization was:

(A) approved; and

(B) disapproved.

(i) The board shall provide the first report required under subsection (h) not later than six (6) months after the board submits an initial preferred drug list to the office.

SECTION 52. IC 12-17-2-34, AS AMENDED BY P.L.132-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. (a) When the Title IV-D agency finds that an obligor is delinquent and can demonstrate that all previous enforcement actions have been unsuccessful, the Title IV-D agency shall send, to a verified address, a notice to the obligor that includes the following:

(1) Specifies that the obligor is delinquent.

(2) Describes the amount of child support that the obligor is in arrears.

(3) States that unless the obligor:

(A) pays the obligor's child support arrearage in full;

(B) requests the activation of an income withholding order

under IC 31-16-15-2 and establishes a payment plan with the Title IV-D agency to pay the arrearage; or

(C) requests a hearing under section 35 of this chapter; within twenty (20) days after the date the notice is mailed, the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent and that the obligor's driving privileges shall be suspended.

(4) Explains that the obligor has twenty (20) days after the notice is mailed to do one (1) of the following:

(A) Pay the obligor's child support arrearage in full.

(B) Request the activation of an income withholding order under IC 31-16-15-2 and establish a payment plan with the Title IV-D agency to pay the arrearage.

(C) Request a hearing under section 35 of this chapter.

(5) Explains that if the obligor has not satisfied any of the requirements of subdivision (4) within twenty (20) days after the notice is mailed, that the Title IV-D agency shall issue a notice to:

(A) the board that regulates the obligor's profession or occupation, if any, that the obligor is delinquent and that the obligor may be subject to sanctions under IC 25-1-1.2, including suspension or revocation of the obligor's professional or occupational license;

(B) the supreme court disciplinary commission if the obligor is licensed to practice law;

(C) the professional standards board as established by IC 20-1-1.4 if the obligor is a licensed teacher;

(D) the Indiana horse racing commission if the obligor holds or applies for a license issued under IC 4-31-6;

(E) the Indiana gaming commission if the obligor holds or applies for a license issued under IC 4-33;

(F) the commissioner of the department of insurance if the obligor holds or is an applicant for a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3; or

(G) the director of the department of natural resources if the obligor holds or is an applicant for a license issued by the department of natural resources under the following:

(i) IC 14-22-12 (fishing, hunting, and trapping licenses).

(ii) IC 14-22-14 (Lake Michigan commercial fishing

license).

(iii) IC 14-22-16 (bait dealer's license).

(iv) IC 14-22-17 (mussel license).

(v) IC 14-22-19 (fur buyer's license).

(vi) IC 14-24-7 (nursery dealer's license).

(vii) IC 14-31-3 (ginseng dealer's license).

(6) Explains that the only basis for contesting the issuance of an order under subdivision (3) or (5) is a mistake of fact.

(7) Explains that an obligor may contest the Title IV-D agency's determination to issue an order under subdivision (3) or (5) by making written application to the Title IV-D agency within twenty (20) days after the date the notice is mailed.

(8) Explains the procedures to:

(A) pay the obligor's child support arrearage in full;

(B) establish a payment plan with the Title IV-D agency to pay the arrearage; and

(C) request the activation of an income withholding order under IC 31-16-15-2.

(b) Whenever the Title IV-D agency finds that an obligor is delinquent and has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter within twenty (20) days after the date the notice described in subsection (a) is mailed;

the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent.

(c) An order issued under subsection (b) must require the following:

(1) If the obligor who is the subject of the order holds a driving license or permit on the date the order is issued, that the driving privileges of the obligor be suspended until further order of the Title IV-D agency.

(2) If the obligor who is the subject of the order does not hold a driving license or permit on the date the order is issued, that the bureau of motor vehicles may not issue a driving license or permit to the obligor until the bureau of motor vehicles receives a further

order from the Title IV-D agency.

(d) The Title IV-D agency shall provide the:

- (1) full name;
- (2) date of birth;
- (3) verified address; and
- (4) Social Security number or driving license number;

of the obligor to the bureau of motor vehicles.

(e) When the Title IV-D agency finds that an obligor who is an applicant (as defined in IC 25-1-1.2-1) or a practitioner (as defined in IC 25-1-1.2-6) is delinquent and the applicant or practitioner has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage or request the activation of an income withholding order under ~~IC 31-2-10-7~~; **IC 31-16-15**; or
- (3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall issue an order to the board regulating the practice of the obligor's profession or occupation stating that the obligor is delinquent.

(f) An order issued under subsection (e) must direct the board regulating the obligor's profession or occupation to impose the appropriate sanctions described under IC 25-1-1.2.

(g) When the Title IV-D agency finds that an obligor who is an attorney or a licensed teacher is delinquent and the attorney or licensed teacher has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage or request the activation of an income withholding order under IC 31-16-15-2; or
- (3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall notify the supreme court disciplinary commission if the obligor is an attorney, or the professional standards board if the obligor is a licensed teacher, that the obligor is delinquent.

(h) When the Title IV-D agency finds that an obligor who holds a license issued under IC 4-31-6 or IC 4-33 has failed to:

- (1) pay the obligor's child support arrearage in full;
- (2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding

order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall issue an order to the Indiana horse racing commission if the obligor holds a license issued under IC 4-31-6, or to the Indiana gaming commission if the obligor holds a license issued under IC 4-33, stating that the obligor is delinquent and directing the commission to impose the appropriate sanctions described in IC 4-31-6-11 or IC 4-33-8.5-3.

(i) When the Title IV-D agency finds that an obligor who holds a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall issue an order to the commissioner of the department of insurance stating that the obligor is delinquent and directing the commissioner to impose the appropriate sanctions described in IC 27-1-15.6-29 or IC 27-10-3-20.

(j) When the Title IV-D agency finds that an obligor who holds a license issued by the department of natural resources under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall issue an order to the director of the department of natural resources stating that the obligor is delinquent and directing the director to suspend or revoke a license issued to the obligor by the department of natural resources as provided in IC 14-11-3.

SECTION 53. IC 12-18-8-4, AS ADDED BY P.L.181-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "final judgment" means:

- (1) an acquittal of a criminal offense; or
- (2) a conviction for a criminal offense:
 - (A) in which the defendant fails to file a timely:
 - (i) notice of appeal under the Indiana rules of appellate procedure; and
 - (ii) motion under Indiana Trial Rule 60(B);
 - (B) in which transfer is denied to the Indiana supreme court; or
 - (C) that is upheld:
 - (i) on appeal;
 - (ii) following a ~~60(B)~~ hearing **under Indiana Trial Rule 60(B)**; or
 - (iii) ~~both: on appeal and following a hearing under Indiana Trial Rule 60(B).~~

SECTION 54. IC 12-18-8-8, AS ADDED BY P.L.181-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) To complete its review of a death that it believes to have resulted from domestic violence, the fatality review performed by a local domestic violence fatality review team may include information from reports generated or received by:

- (1) agencies;
- (2) organizations; or
- (3) individuals;

responsible for the investigation, prosecution, or treatment concerning a death being investigated by the **local domestic violence** fatality review team.

(b) An entity or individual that in good faith provides information described in subsection (a) is immune from civil or criminal liability that might otherwise be imposed as the result of providing this information.

SECTION 55. IC 12-18-8-9, AS ADDED BY P.L.181-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The recommendations of a **local** domestic violence fatality review team may be disclosed at the discretion of a majority of the members at the conclusion of a review.

SECTION 56. IC 12-18-8-10, AS ADDED BY P.L.181-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A local domestic violence fatality

review team consists of the following members:

- (1) A survivor of domestic violence.
- (2) A domestic violence direct service provider.
- (3) A representative of law enforcement from the area served by the local domestic violence **fatality** review team.
- (4) A prosecuting attorney or the prosecuting attorney's designee from the area served by the local domestic violence fatality review team.
- (5) An expert in the field of forensic pathology.
- (6) A medical practitioner with expertise in domestic violence.
- (7) A judge who hears civil or criminal cases.
- (8) An employee of a child protective services agency.

(b) If a local domestic violence fatality review team is established in one (1) county, the legislative body that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

- (1) adopt an ordinance for the appointment and reappointment of members of the local domestic violence fatality review team; and
- (2) appoint members to the local domestic violence fatality review team under the ordinance adopted.

(c) If a local domestic violence fatality review team is established in a region, the county legislative bodies that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

- (1) each adopt substantially similar ordinances for the appointment and reappointment of members of the local domestic violence fatality review team; and
- (2) appoint members to the local domestic violence fatality review team under the ordinances adopted.

(d) A local domestic violence fatality review team may not have more than fifteen (15) members.

SECTION 57. IC 12-18-8-13, AS ADDED BY P.L.181-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Except as provided in subsection (b), meetings of a local domestic violence fatality review team are open to the public.

(b) Meetings of a local domestic violence fatality review team that involve:

- (1) confidential records; or
- (2) identifying information regarding a death;

shall be held as an executive session with the public excluded, except those persons necessary to carry out the fatality review.

(c) If an executive session is held under subsection (b), each individual who:

- (1) attends a meeting of a local domestic violence fatality review team; and
- (2) is not a member of the local domestic violence fatality review team;

shall sign a confidentiality agreement.

(d) A local domestic violence ~~facility~~ **fatality** review team shall keep all confidentiality statements signed under this section.

SECTION 58. IC 13-11-2-84.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 84.5. "Financial or administrative function", for purposes of sections 151.2, 151.3, and 151.4 of this chapter, IC 13-23-13-14, IC 13-24-1-10, and IC 13-25-4-8.2, includes a function such as that of:**

- (1) a credit manager;
- (2) an accounts payable officer;
- (3) an accounts receivable officer;
- (4) a personnel manager;
- (5) a comptroller; or
- (6) a chief financial officer or a similar function.

SECTION 59. IC 13-11-2-115.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 115.5. "Land trust", for purposes of IC 13-25-3, means a trust that is established under terms providing that:**

- (1) the trustee holds legal or equitable title to property;
- (2) the beneficiary has the power to manage the trust property, including the power to direct the trustee to sell the property; and
- (3) the trustee may sell the trust property:
 - (A) only at the direction of the beneficiary or other person;
 - or
 - (B) after a time stipulated in the terms of the trust.

SECTION 60. IC 13-11-2-116, AS AMENDED BY P.L.133-1998, SECTION 4, AND AS AMENDED BY P.L.14-2000, SECTION 34, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 116. (a) "Landfill", for purposes of IC 13-20-2, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

(b) "Landfill", for purposes of *section 114.2 of this chapter and IC 13-20-11, and ~~IC 13-20-23~~*, means a facility operated under a permit issued under IC 13-15-3 or IC 13-7-10 (before its repeal) at which solid waste is disposed of by placement on or under the surface of the ground.

(c) "Landfill", for purposes of section 82 of this chapter and IC 13-21, means a solid waste ~~management~~ disposal facility at which solid waste is deposited on or in the ground as an intended place of final location. The term does not include the following:

(1) A site that is devoted solely to receiving one (1) or more of the following:

(A) Fill dirt.

(B) Vegetative matter subject to disposal as a result of:

(i) landscaping;

(ii) yard maintenance;

(iii) land clearing; or

(iv) any combination of activities referred to in this clause.

(2) A facility receiving waste that is regulated under the following:

(A) IC 13-22-1 through IC 13-22-8.

(B) IC 13-22-13 through IC 13-22-14.

SECTION 61. IC 13-11-2-160 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 160. "Petroleum", for purposes of:

(1) IC 13-23;

(2) IC 13-24-1; and

(3) IC 13-25-5;

includes petroleum and crude oil or any part of petroleum or crude oil that is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit (~~60°F~~) (**60°F**) and fourteen and seven-tenths (14.7) pounds per square inch absolute).

SECTION 62. IC 13-11-2-265.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 265.1. "Watershed", for purposes of IC 13-18-3, has the meaning set forth in IC 14-8-2-310.**

SECTION 63. IC 16-18-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 67. (a) ~~"Comprehensive care bed", for purposes of IC 16-29-1, has the meaning set forth in IC 16-29-1-1.~~

(b) "Comprehensive care bed", for purposes of IC 16-29-2, has the meaning set forth in IC 16-29-2-1.

SECTION 64. IC 16-31-6-4, AS AMENDED BY P.L.2-2003, SECTION 53, AND AS AMENDED BY P.L.205-2003, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section does not apply to an act or omission that was a result of gross negligence or willful or intentional misconduct.

(b) An act or omission of a paramedic, an *advanced* emergency medical ~~technician~~ *technician-intermediate*, an emergency medical ~~technician~~ *technician-basic advanced*, an *emergency medical technician*, or a person with equivalent certification from another state that is performed or made while providing advanced life support or basic life support to a patient or trauma victim does not impose liability upon the paramedic, the *advanced* emergency medical ~~technician~~ *technician-intermediate*, the emergency medical ~~technician~~ *technician-basic advanced*, an *emergency medical technician*, the person with equivalent certification from another state, a hospital, a provider organization, a governmental entity, or an employee or other staff of a hospital, provider organization, or governmental entity if the advanced life support or basic life support is provided in good faith:

(1) in connection with a disaster emergency declared by the governor under ~~IC 10-4-1-7~~ *IC 10-14-3-12* in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(2) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

SECTION 65. IC 16-31-8.5-1, AS ADDED BY P.L.205-2003, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 1. As used in this chapter, "agency" refers to the state emergency management agency established by ~~IC 10-8-2-1~~. **IC 10-14-2-1.**

SECTION 66. IC 16-38-5-4, AS ADDED BY P.L.135-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) An entity described in section 3(c) of this chapter, the state department, or an agent of the state department who in good faith provides or receives immunization information is immune from civil and criminal liability for the following:

- (1) Providing information to the immunization data registry.
- (2) Using the immunization data registry information to verify that a patient or child has received proper immunizations.
- (3) Using the immunization data registry information to inform a patient or the child's parent or guardian:
 - (A) of the ~~patient~~ **patient's** or child's immunization status; or
 - (B) that an immunization is due according to recommended immunization schedules.

(b) A person who knowingly, intentionally, or recklessly discloses confidential information contained in the immunization data registry in violation of this chapter commits a Class A misdemeanor.

SECTION 67. IC 16-41-6-1, AS AMENDED BY P.L.212-2003, SECTION 4, AND AS AMENDED BY P.L.237-2003, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in *IC 16-41-10-2.5 and* subsection (b), a person may not perform a screening or confirmatory test for the antibody or antigen to ~~the human immunodeficiency virus (HIV)~~ *HIV* without the consent of the individual to be tested or a representative as authorized under IC 16-36-1. A physician ordering the test or the physician's authorized representative shall document whether or not the individual has consented. *The test for the antibody or antigen to HIV may not be performed on a woman under section 5 or 6 of this chapter if the woman refuses under section 7 of this chapter to consent to the test.*

(b) The test for the antibody or antigen to HIV may be performed if one (1) of the following conditions exists:

- (1) If ordered by a physician who has obtained a health care consent under IC 16-36-1 or an implied consent under emergency circumstances and the test is medically necessary to diagnose or

treat the patient's condition.

(2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an individual. A hearing held under this subsection shall be held in camera at the request of the individual.

(3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).

(4) The test is ordered under section 4 of this chapter.

(5) The test is required or authorized under IC 11-10-3-2.5.

(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

SECTION 68. IC 16-41-6-8, AS ADDED BY P.L.237-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies to a physician or an advanced practice nurse who orders an HIV test under section 5 or 6 of this chapter or to the physician's or nurse's designee.

(b) An individual described in subsection (a) shall:

(1) inform the pregnant woman that:

(A) the individual is required by law to order an HIV test unless the pregnant woman refuses; and

(B) the pregnant woman has a right to refuse the test; and

(2) explain to the pregnant woman:

(A) the purpose of the test; and

(B) the risks and benefits of the test.

(c) An individual described in subsection (a) shall document in the pregnant woman's medical records that the pregnant woman received the information required under subsection (b).

(d) If a pregnant woman refuses to consent to an HIV test, the refusal must be noted in the pregnant woman's medical records.

(e) If a test ordered under section 5 or 6 of this chapter is positive, an individual described in subsection (a):

(1) shall inform the pregnant woman of the test results;

(2) shall inform the pregnant woman of the treatment options or referral options available to the pregnant woman; and

(3) shall:

(A) provide the pregnant woman with a description of the methods of HIV transmission;

(B) discuss risk reduction behavior modifications with the pregnant woman, including methods to reduce the risk of perinatal HIV transmission and HIV transmission through breast milk; and

(C) provide the pregnant woman with referral information to other HIV prevention, health care, and psychosocial services.

(f) The provisions of IC 16-41-2-3 apply to a positive HIV test under section 5 or 6 of this chapter.

(g) The results of a test performed under section 5 or 6 of this chapter are confidential.

(h) As a routine component of prenatal care, every individual described in subsection (a) is required to provide information and counseling regarding HIV and the standard ~~serological~~ **licensed diagnostic** test for HIV and to offer and recommend the standard ~~serological~~ **licensed diagnostic** test for HIV.

(i) An individual described in subsection (a) shall obtain a statement, signed by the pregnant woman, acknowledging that the pregnant woman was counseled and provided the required information set forth in subsection (b) to ensure that an informed decision has been made.

(j) A pregnant woman who refuses a test under this section must do so in writing.

SECTION 69. IC 16-41-10-3, AS AMENDED BY P.L.212-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b), if a patient to whose blood or body fluids an emergency medical services provider is exposed as described in section 2 of this chapter:

(1) is admitted to a medical facility following the exposure or is located in a medical facility at the time of the exposure, a physician designated by the medical facility shall, not more than seventy-two (72) hours after the medical facility is notified under section 2 of this chapter:

(A) cause a blood or body fluid specimen to be obtained from the patient and testing to be performed for a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider; and

(B) notify the medical director of the emergency medical services provider's employer; or

(2) is not described in subdivision (1), the exposed emergency medical services provider, the exposed emergency medical services provider's employer, or the state department may:

(A) arrange for testing of the patient as soon as possible; or

(B) petition the circuit or superior court having jurisdiction in the county of the patient's residence or where the employer of the exposed emergency medical services provider has the employer's principal office for an order requiring that the patient provide a blood or body fluid specimen.

(b) An emergency medical services provider may, on the form described in section 2 of this chapter, designate a physician other than the medical director of the emergency medical services provider's employer to receive the test results.

(c) The medical director or physician described in ~~section 3 of this chapter~~ **section** shall notify the emergency medical services provider of the test results not more than forty-eight (48) hours after the medical director or physician receives the test results.

SECTION 70. IC 16-42-5-28, AS ADDED BY P.L.266-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) The state department shall adopt rules under IC 4-22-2 establishing a schedule of civil penalties that may be imposed by the state department to enforce either of the following:

(1) This chapter.

(2) Rules adopted to implement this chapter.

(b) A penalty included in the schedule of civil penalties established under this section may not exceed one thousand dollars (\$1,000) for each violation per day.

(c) The civil penalties collected under this section shall be deposited in the state general fund.

(d) The state department may issue an order of compliance or impose a civil penalty included in the schedule of civil penalties established under this section, or both, against a person who does any of the following:

(1) Fails to comply with this chapter or a rule adopted to implement this chapter.

(2) Interferes with or obstructs the state department or the state

department's designated agent in the performance of duties under this chapter.

(e) The state department may issue an order of compliance against a person described in subsection ~~(c)~~ **(d)** under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4. The state department may impose a civil penalty against a person described in subsection ~~(c)~~ **(d)** only in a proceeding under IC 4-21.5-3-8.

(f) A proceeding commenced to impose a civil penalty under the schedule of civil penalties established under this section may be consolidated with any other proceeding commenced to enforce either of the following:

(1) This chapter.

(2) A rule adopted by the state department to implement this chapter.

(g) A corporation or a local health department:

(1) may bring an administrative action to enforce this chapter, rules adopted to implement this chapter, or the schedule of civil penalties established by the state department under this section;

(2) may use tickets or citations to enforce this chapter, rules adopted under this chapter, or the schedule of civil penalties established by the state department under this section; and

(3) shall deposit in the general fund of the corporation or the local health department the civil penalties collected under this section.

(h) For each violation of the state law or rules concerning food handling or food establishments, the state or either:

(1) a corporation; or

(2) a local health department;

may bring an enforcement action against a food establishment.

SECTION 71. IC 16-42-5.2-3, AS AMENDED BY P.L.104-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. This chapter does not apply to the following:

(1) Hospitals licensed under IC 16-21.

(2) Health facilities licensed under IC 16-28.

(3) Housing with services establishments that are required to file disclosure statements under ~~IC 12-15~~. **IC 12-10-15.**

(4) Continuing care retirement communities required to file disclosure statements under IC 23-2-4.

(5) Community mental health centers (as defined in IC 12-7-2-38).

(6) Private mental health institutions licensed under IC 12-25.

SECTION 72. IC 20-5-2-7, AS AMENDED BY P.L.2-2003, SECTION 56, AND AS AMENDED BY P.L.161-2003, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A school corporation, including a school township, shall adopt a policy concerning criminal history information for individuals who:

(1) apply for:

(A) employment with the school corporation; or

(B) employment with an entity with which the school corporation contracts for services;

(2) seek to enter into a contract to provide services to the school corporation; or

(3) are employed by an entity that seeks to enter into a contract to provide services to the school corporation;

if the individuals are likely to have direct, ongoing contact with children within the scope of the individuals' employment.

(b) A school corporation, including a school township, shall administer a policy adopted under this section uniformly for all individuals to whom the policy applies. A policy adopted under this section may require any of the following:

(1) The school corporation, including a school township, may request limited criminal history information concerning each applicant for noncertificated employment or certificated employment from a local or state law enforcement agency before or not later than three (3) months after the applicant's employment by the school corporation.

(2) Each individual hired for noncertificated employment or certificated employment may be required to provide a written consent for the school corporation to request under ~~IC 5-2-5~~ *IC 10-13-3* limited criminal history information or a national criminal history background check concerning the individual before or not later than three (3) months after the individual's employment by the school corporation. The school corporation may require the individual to provide a set of fingerprints and pay any fees required for a national criminal history background

check.

(3) Each individual hired for noncertificated employment may be required at the time the individual is hired to submit a certified copy of the individual's limited criminal history (as defined in ~~IC 5-2-5-1(1)~~ IC 10-13-3-11) to the school corporation.

(4) Each individual hired for noncertificated employment may be required at the time the individual is hired to:

(A) submit a request to the Indiana central repository for limited criminal history information under ~~IC 5-2-5-~~ IC 10-13-3;

(B) obtain a copy of the individual's limited criminal history; and

(C) submit to the school corporation the individual's limited criminal history and a document verifying a disposition (as defined in ~~IC 5-2-5-1(6)~~ IC 10-13-3-7) that does not appear on the limited criminal history.

(5) Each applicant for noncertificated employment or certificated employment may be required at the time the individual applies to answer questions concerning the individual's limited criminal history. The failure to answer honestly questions asked under this subdivision is grounds for termination of the employee's employment.

(6) Each individual that:

(A) seeks to enter into a contract to provide services to a school corporation; or

(B) is employed by an entity that seeks to enter into a contract with a school corporation;

may be required at the time the contract is formed to comply with the procedures described in ~~subdivision (4)(A) and (4)(B). The school corporation either may require that the individual or the contractor comply with the procedures described in subdivision (4)(C) or (5); subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the school~~

corporation. Failure to comply with subdivisions (2), (4), and (5), as required by the school corporation, is grounds for termination of the contract. An entity that enters into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program is allowed to obtain limited criminal history information or a national criminal history background check regarding the entity's applicants or employees in the same manner that a school corporation may obtain the information.

(c) If an individual is required to obtain a limited criminal history under this section, the individual is responsible for all costs associated with obtaining the limited criminal history.

(d) Information obtained under this section must be used in accordance with ~~IC 5-2-5-6~~. *IC 10-13-3-29.*

SECTION 73. IC 20-6.1-3-11, AS ADDED BY P.L.100-2001, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "program" refers to the transition to teaching program established by subsection (b).

(b) The transition to teaching program is established to accomplish the following:

(1) Facilitate the transition into the teaching profession of competent professionals in fields other than teaching.

(2) Allow competent professionals who do not hold a teaching license to earn and be issued a teaching license through participation in and satisfactory completion of the program.

(c) Subject to the requirements of this section, the board shall develop and administer the program. The board shall determine the details of the program that are not included in this section.

(d) Each accredited teacher training school and department shall establish a course of study that constitutes the higher education component of the program. The higher education component required under this subsection must comply with the following requirements:

(1) Include the following study requirements:

(A) For a program participant who seeks to obtain a license to teach in grade 6 through grade 12, up to eighteen (18) credit hours of study or the equivalent that prepare a program participant to meet Indiana standards for teaching in the

subject areas corresponding to the area in which the program participant has met the education requirements under subsection (e), unless the program participant demonstrates that the program participant requires fewer credit hours of study to meet Indiana standards for teaching.

(B) For a program participant who seeks to obtain a license to teach in kindergarten through grade 5, twenty-four (24) credit hours of study or the equivalent, which must include at least six (6) credit hours in the teaching of reading, that prepare a program participant to meet Indiana standards for teaching, unless the program participant demonstrates that the program participant requires fewer credit hours of study to meet Indiana standards for teaching.

(2) Focus on the communication of knowledge to students.

(3) Include suitable field or classroom experiences if the program participant does not have teaching experience.

(e) A person who wishes to participate in the program must have one (1) of the following qualifications:

(1) For a program participant who seeks to obtain a license to teach in grade 6 through grade 12, one (1) of the following:

(A) A bachelor's degree or the equivalent with a grade point average of three (3.0) on a four (4.0) scale from an accredited institution of higher education in the subject area that the person intends to teach.

(B) A graduate degree from an accredited institution of higher education in the subject area that the person intends to teach.

(C) Both:

(i) a bachelor's degree from an accredited institution of higher education with a grade point average of two and five-tenths (2.5) on a four (4) point scale; and

(ii) five (5) years of professional experience;

in the subject area that the person intends to teach.

(2) For a program participant who seeks to obtain a license to teach in kindergarten through grade 5, one (1) of the following:

(A) A bachelor's degree or the equivalent with a grade point average of three (3.0) on a four (4.0) scale from an accredited institution of higher education.

(B) Both:

- (i) a bachelor's degree from an accredited institution of higher education with a grade point average of two and five-tenths (2.5) on a four (4.0) point scale; and
- (ii) five (5) years of professional experience in an education-related field.

(f) The board shall grant an initial standard license to a program participant who does the following:

- (1) Successfully completes the higher education component of the program.
- (2) Demonstrates proficiency through a written examination in:
 - (A) basic reading, writing, and mathematics;
 - (B) pedagogy; and
 - (C) knowledge of the areas in which the program participant is required to have a license to teach;

under section 10.1(a) of this chapter.

- (3) Participates successfully in a beginning teacher internship program under IC 20-6.1-8 **(repealed)** that includes implementation in a classroom of the teaching skills learned in the higher education component of the program.

- (4) Receives a successful assessment of teaching skills upon completion of the beginning teacher internship program from the administrator of the school where the beginning teacher internship program takes place, or, if the program participant does not receive a successful assessment, participates in the beginning teacher internship program for a second year, as provided under IC 20-6.1-8-13 **(repealed)**. The appeals provisions of IC 20-6.1-8-14 **(repealed)** apply to an assessment under this subdivision.

(g) This subsection applies to a program participant who has a degree described in subsection (e) that does not include all the content areas of a standard license issued by the board. The board shall issue an initial standard license that is restricted to only the content areas in which the program participant has a degree unless the program participant demonstrates sufficient knowledge in other content areas of the license.

(h) A school corporation may hire a program participant to teach only in the subject area in which the participant meets the qualifications set forth under subsection (e).

(i) After receiving an initial standard license under subsection (f) or (g), a program participant who seeks to renew the participant's initial standard license must meet the same requirements as other candidates for license renewal.

(j) The board may adopt rules under IC 4-22-2 to administer this section. Rules adopted under this subsection must include a requirement that accredited teacher training schools and departments submit an annual report to the board of the number of individuals who:

- (1) enroll in; and
- (2) complete;

the program.

SECTION 74. IC 20-6.1-4-1, AS AMENDED BY P.L.291-2001, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Within ten (10) days after a request from the governing body, the superintendent shall make a report on any person being considered by the school corporation for either a teaching appointment or an indefinite contract as defined in section 9 of this chapter. This report must contain the person's teaching preparation, experience, and license.

(b) The governing body of a school corporation may not employ an individual who receives an initial standard or reciprocal license after March 31, 1988, for a teaching appointment under this chapter unless the individual:

- (1) has successfully completed a beginning teacher internship program under IC 20-6.1-8 (**repealed**); or
- (2) has at least two (2) years of teaching experience outside Indiana.

(c) This section does not prevent the granting of additional authority in the selection or employment of teachers to a superintendent by the rules and regulations of a school corporation.

SECTION 75. IC 20-8.1-5.1-23, AS AMENDED BY P.L.202-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) This section applies to the following:

- (1) A student who:
 - (A) is expelled from a school corporation or charter school under this chapter; or
 - (B) withdraws from a school corporation or charter school to avoid expulsion.

(2) A student who:

(A) is required to separate for disciplinary reasons from a nonpublic school or a school in a state other than Indiana by the administrative authority of the school; or

(B) withdraws from a nonpublic school or a school in a state other than Indiana in order to avoid being required to separate from the school for disciplinary reasons by the administrative authority of the school.

(b) The student may enroll in another school corporation or charter school during the period of the actual or proposed expulsion or separation if:

(1) the student's parent informs the school corporation in which the student seeks to enroll and also:

(A) in the case of a student withdrawing from a charter school that is not a conversion charter school to avoid expulsion, the conversion charter school; or

(B) in the case of a student withdrawing from a conversion charter school to avoid expulsion: ~~the~~

(i) ~~the~~ conversion charter school; and

(ii) the school corporation that sponsored the conversion charter school;

of the student's expulsion or separation or withdrawal to avoid expulsion or separation;

(2) the school corporation (and, in the case of a student withdrawal described in subdivision (1)(A) or (1)(B), the charter school) consents to the student's enrollment; and

(3) the student agrees to the terms and conditions of enrollment established by the school corporation (or, in the case of a student withdrawal described in subdivision (1)(A) or (1)(B), the charter school or conversion charter school).

(c) If:

(1) a student's parent fails to inform the school corporation of the expulsion or separation or withdrawal to avoid expulsion or separation; or

(2) the student fails to follow the terms and conditions of enrollment under subsection (b)(3);

the school corporation or charter school may withdraw consent and prohibit the student's enrollment during the period of the actual or

proposed expulsion or separation.

(d) Before a consent is withdrawn under subsection (c) the student must have an opportunity for an informal meeting before the principal of the student's proposed school. At the informal meeting, the student is entitled to:

- (1) a written or an oral statement of the reasons for the withdrawal of the consent;
- (2) a summary of the evidence against the student; and
- (3) an opportunity to explain the student's conduct.

(e) This section does not apply to a student who is expelled under section 11 of this chapter.

SECTION 76. IC 20-12-14-2, AS AMENDED BY P.L.224-2003, SECTION 139, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Instruction in laboratory schools may be provided for pre-school pupils, kindergarten pupils, special education pupils, and for all or a portion of the twelve (12) common school grades.

(b) Agreements may be entered into with local school units and educational organizations for the assignment of pupils to such laboratory schools, the payment of transfer fees, and contributions to the cost of establishing and maintaining the laboratory schools.

(c) A laboratory school that:

- (1) is operated by a university under this chapter without an agreement described in subsection (b); and
- (2) has an ADM (as defined in IC 21-3-1.6-1.1(d)) of not more **than** seven hundred fifty (750);

shall be treated as a charter school for purposes of local funding under IC 6-1.1-19 and state funding under IC 21-3.

(d) A pupil who attends a laboratory school full time may not be counted in ADM or ADA by any local school unit when his attendance is not regulated under an agreement.

SECTION 77. IC 20-12-19.5-1, AS AMENDED BY P.L.32-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The children of:

- (1) regular, paid law enforcement officers;
- (2) regular, paid firefighters;
- (3) volunteer firefighters (as defined in IC 36-8-12-2);
- (4) county police reserve officers;

- (5) city police reserve officers;
- (6) paramedics (as defined in IC 16-18-2-266);
- (7) emergency medical technicians (as defined in IC 16-18-2-112); or
- (8) advanced emergency medical technicians (as defined in IC 16-18-2-6) **(repealed)**;

who have been killed in the line of duty shall not be required to pay tuition or mandatory fees at any state supported college, university, or technical school, so long as the children are under the age of twenty-three (23) and are full-time students pursuing a prescribed course of study.

(b) The surviving spouse of a:

- (1) regular, paid law enforcement officer;
 - (2) regular, paid firefighter;
 - (3) volunteer firefighter (as defined in IC 36-8-12-2);
 - (4) county police reserve officer;
 - (5) city police reserve officer;
 - (6) paramedic (as defined in IC 16-18-2-266);
 - (7) emergency medical technician (as defined in IC 16-18-2-112);
- or
- (8) advanced emergency medical technician (as defined in IC 16-18-2-6) **(repealed)**;

who has been killed in the line of duty may not be required to pay tuition or mandatory fees at any state supported college, university, or technical school, so long as the surviving spouse is pursuing a prescribed course of study at the institution towards an undergraduate degree.

(c) This section applies to the children and surviving spouse of a:

- (1) regular, paid law enforcement officer;
 - (2) regular, paid firefighter;
 - (3) volunteer firefighter (as defined in IC 36-8-12-2);
 - (4) county police reserve officer;
 - (5) city police reserve officer;
 - (6) paramedic (as defined in IC 16-18-2-266);
 - (7) emergency medical technician (as defined in IC 16-18-2-112);
- or
- (8) advanced emergency medical technician (as defined in IC 16-18-2-6) **(repealed)**;

if the public safety officer described in this subsection was a resident of Indiana and was killed in the line of duty before, on, or after July 1, 1993.

SECTION 78. IC 21-2-11-4, AS AMENDED BY P.L.224-2003, SECTION 145, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Any lawful school expenses payable from any other fund of the school corporation, including without limitation debt service and capital outlay, but excluding costs attributable to transportation (as defined in IC 21-2-11.5-2), may be budgeted in and paid from the general fund. However, after June 30, 2003, and before July 1, 2005, a school corporation may budget for and pay costs attributable to transportation (as defined in IC 21-2-11.5-2) from the general fund.

(b) In addition, remuneration for athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-6.1-3) may be budgeted in and paid from the school corporation's general fund.

(c) During the period beginning July 1, 2003, and ending June 30, 2005, ~~the~~ school corporation may transfer money in a fund maintained by the school corporation (other than the special education preschool fund (IC 21-2-17-1) or the school bus replacement fund (IC 21-2-11.5-2)) that is obtained from:

- (1) a source other than a state distribution or local property taxation; or
- (2) a state distribution or a property tax levy that is required to be deposited in the fund;

to any other fund. A transfer under subdivision (2) may not be the sole basis for reducing the property tax levy for the fund from which the money is transferred or the fund to which money is transferred. Money transferred under this subsection may be used only to pay costs, including debt service, attributable to reductions in funding for transportation distributions under IC 21-3-3.1, including reimbursements associated with transportation costs for special education and vocational programs under IC 21-3-3.1-4, and ADA flat grants under IC 21-3-4.5. The property tax levy for a fund from which money was transferred may not be increased to replace the money transferred to another fund.

(d) The total amount transferred under subsection (c) may not

exceed the following:

(1) For the period beginning July 1, 2003, and ending June 30, 2004, the total amount of state funding received for transportation distributions under IC 21-3-3.1, including reimbursements associated with transportation costs for special education and vocational programs under IC 21-3-3.1-4, and ADA flat grants under IC 21-3-4.5 for the same period.

(2) For the period beginning July 1, 2004, and ending June 30, 2005, the product of:

(A) the amount determined under subdivision (1); multiplied by

(B) two (2).

SECTION 79. IC 21-2-15-4, AS AMENDED BY P.L.224-2003, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) As used in this subsection, "calendar year distribution" means the sum of:

(1) all distributions to a school corporation under:

(A) IC 6-1.1-19-1.5;

(B) IC 21-1-30;

(C) IC 21-3-1.7;

(D) IC 21-3-2.1; and

(E) IC 21-3-12;

for the calendar year; plus

(2) ~~plus~~ the school corporation's excise tax revenue (as defined in IC 21-3-1.7-2) for the immediately preceding calendar year.

(b) A school corporation may establish a capital projects fund.

(c) With respect to any facility used or to be used by the school corporation (other than a facility used or to be used primarily for interscholastic or extracurricular activities, except as provided in subsection (j)), the fund may be used to pay for the following:

(1) Planned construction, repair, replacement, or remodeling.

(2) Site acquisition.

(3) Site development.

(4) Repair, replacement, or site acquisition that is necessitated by an emergency.

(d) The fund may be used to pay for the purchase, lease, repair, or maintenance of equipment to be used by the school corporation (other than vehicles to be used for any purpose and equipment to be used

primarily for interscholastic or extracurricular activities, except as provided in subsection (j)).

(e) The fund may be used for any of the following purposes:

(1) To purchase, lease, upgrade, maintain, or repair one (1) or more of the following:

(A) Computer hardware.

(B) Computer software.

(C) Wiring and computer networks.

(D) Communication access systems used to connect with computer networks or electronic gateways.

(2) To pay for the services of full-time or part-time computer maintenance employees.

(3) To conduct nonrecurring inservice technology training of school employees.

(4) To fund the payment of advances, together with interest on the advances, from the common school fund for educational technology programs under IC 21-1-5.

(5) To fund the acquisition of any equipment or services necessary:

(A) to implement the technology preparation curriculum under IC 20-10.1-5.6;

(B) to participate in a program to provide educational technologies, including computers, in the homes of students (commonly referred to as "the buddy system project") under IC 20-10.1-25, the 4R's technology program under IC 20-10.1-25, or any other program under the educational technology program described in IC 20-10.1-25; or

(C) to obtain any combination of equipment or services described in clauses (A) and (B).

(f) The fund may be used to purchase:

(1) building sites;

(2) buildings in need of renovation;

(3) building materials; and

(4) equipment;

for the use of vocational building trades classes to construct new buildings and to remodel existing buildings.

(g) The fund may be used for leasing or renting of existing real estate, excluding payments authorized under IC 21-5-11 and

IC 21-5-12.

(h) The fund may be used to pay for services of the school corporation employees that are bricklayers, stone masons, cement masons, tile setters, glaziers, insulation workers, asbestos removers, painters, paperhangers, drywall applicators and tapers, plasterers, pipe fitters, roofers, structural and steel workers, metal building assemblers, heating and air conditioning installers, welders, carpenters, electricians, or plumbers, as these occupations are defined in the United States Department of Labor, Employment and Training Administration, Dictionary of Occupational Titles, Fourth Edition, Revised 1991, if:

(1) the employees perform construction of, renovation of, remodeling of, repair of, or maintenance on the facilities and equipment specified in subsections (b) and (c);

(2) the school corporation's total annual salary and benefits paid by the school corporation to employees described in this subsection are at least six hundred thousand dollars (\$600,000); and

(3) the payment of the employees described in this subsection is included as part of the proposed capital projects fund plan described in section 5(a) of this chapter.

However, the number of employees that are covered by this subsection is limited to the number of employee positions described in this subsection that existed on January 1, 1993. For purposes of this subsection, maintenance does not include janitorial or comparable routine services normally provided in the daily operation of the facilities or equipment.

(i) The fund may be used to pay for energy saving contracts entered into by a school corporation under IC 36-1-12.5.

(j) Money from the fund may be used to pay for the construction, repair, replacement, remodeling, or maintenance of a school sports facility. However, a school corporation's expenditures in a calendar year under this subsection may not exceed five percent (5%) of the property tax revenues levied for the fund in the calendar year.

(k) Money from the fund may be used to carry out a plan developed under IC 20-10.1-33.

(l) This subsection applies during the period beginning January 1, 2004, and ending December 31, 2005. Money from the fund may be used to pay for up to one hundred percent (100%) of the following

costs of a school corporation:

- (1) Utility services.
- (2) Property or casualty insurance.
- (3) Both utility services and property or casualty insurance.

In the 2004 calendar year, a school corporation's expenditures under this subsection may not exceed one percent (1%) of the school corporation's 2003 calendar year distribution. In the 2005 calendar year, a school corporation's expenditures under this subsection may not exceed two percent (2%) of the school corporation's 2003 calendar year distribution.

(m) Notwithstanding subsection (l), a school corporation's expenditures under subsection (l) in the 2004 calendar year may exceed one percent (1%) of the school corporation's 2003 calendar year distribution if the school corporation's 2004 calendar year distribution is less than the school corporation's 2003 calendar year distribution. The amount by which a school corporation's expenditures under subsection (l) in the 2004 calendar year may exceed one percent (1%) of the school corporation's 2003 calendar year distribution is the least of the following:

- (1) One percent (1%) of the school corporation's 2003 calendar year distribution.
 - (2) The greater of zero (0) or the difference between:
 - (A) the sum of:
 - (i) the school corporation's calendar year distribution;
 - (ii) the amount determined for the school corporation under subsection (l); plus
 - (iii) the amount determined for the school corporation under this subsection, if any;for the immediately preceding calendar year; minus
 - (B) the school corporation's calendar year distribution for the calendar year.
 - (3) The difference between:
 - (A) one hundred percent (100%) of the school corporation's costs for utility services and property or casualty insurance; minus
 - (B) the amount determined for the school corporation under subsection (l) for the calendar year.
- (n) Notwithstanding subsection (l), a school corporation's

expenditures under subsection (l) in the 2005 calendar year may exceed two percent (2%) of the school corporation's 2003 calendar year distribution if the school corporation's 2005 calendar year distribution is less than the school corporation's 2003 calendar year distribution. The amount by which a school corporation's expenditures under subsection (l) in the 2005 calendar year may exceed two percent (2%) of the school corporation's 2003 calendar year distribution is the least of the following:

- (1) Two percent (2%) of the school corporation's 2003 calendar year distribution.
- (2) The greater of zero (0) or the difference between:
 - (A) the sum of:
 - (i) the school corporation's calendar year distribution;
 - (ii) the amount determined for the school corporation under subsection (l); plus
 - (iii) the amount determined for the school corporation under this subsection, if any;
 - for the immediately preceding calendar year; minus
 - (B) the school corporation's calendar year distribution for the calendar year.
- (3) The difference between:
 - (A) one hundred percent (100%) of the school corporation's costs for utility services and property or casualty insurance; minus
 - (B) the amount determined for the school corporation under subsection (l) for the calendar year.

SECTION 80. IC 21-3-1.6-2, AS AMENDED BY P.L.276-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this section, "school corporation" does not include a charter school.

(b) To each school corporation there shall be assigned for each calendar year a teacher ratio which shall consist of the average training and experience factor of the school corporation divided by the state training and experience factor for the same year. The training and experience factor of the school corporation for each calendar year shall be calculated by assigning to each of its teachers employed on October 1 of the preceding year an index number in accordance with the following table, adding the total index numbers of all teachers in the

school corporation and dividing the total by the number of teachers. The state factor shall be similarly calculated for all the teachers employed by the state's school corporations.

	Amount of College Training	Amount of Experience	Index Factor
(a)	Less than 4 years	Not applicable	0.7
(b)	4 years but less than 5 years	Less than 6 years	0.8
		6 years or more	0.9
(c)	5 years or more	Less than 5 years	1.0
		5 years or more but less than 11 years	1.1
		11 years or more but less than 17 years	1.2
		17 years or more	1.3 1.3

SECTION 81. IC 21-3-1.7-9.8, AS AMENDED BY P.L.224-2003, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.8. (a) In addition to the distributions under sections 8.2, 9.5, 9.7, and 9.9 of this chapter, a school corporation is eligible for an honors diploma award in the amount determined under STEP TWO of the following formula:

STEP ONE: Determine the number of the school corporation's eligible pupils who successfully completed an academic honors diploma program in the school year ending in the previous calendar year.

STEP TWO: Multiply the STEP ONE amount by nine hundred sixty-three dollars (\$963).

~~(c)~~ **(b)** Each year the governing body of a school corporation may use the money that the school corporation receives for an honors diploma award under this section to give nine hundred sixty-three dollars (\$963) to each eligible pupil in the school corporation who successfully completes an academic honors diploma program in the school year ending in the previous calendar year.

SECTION 82. IC 22-4-15-1, AS AMENDED BY P.L.189-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) With respect to benefit periods

established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions; and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily

unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

- (A) the employment was outside the individual's labor market;
- (B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and

(C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual shall not be subject to disqualification if the individual voluntarily left employment or was discharged due to circumstances directly caused by domestic or family violence (as defined in IC 31-9-2-42). An individual who may be entitled to benefits based on this modification may apply to the office of the attorney general **under IC 5-26.5** to have an address designated by the office of the attorney general to serve as the individual's address for purposes of this article. ~~under IC 5-26.5.~~

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

- (1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;
- (2) knowing violation of a reasonable and uniformly enforced rule of an employer;
- (3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;
- (4) damaging the employer's property through willful negligence;
- (5) refusing to obey instructions;
- (6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;
- (7) conduct endangering safety of self or coworkers; or
- (8) incarceration in jail following conviction of a misdemeanor or

felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

(e) To verify that domestic or family violence has occurred, an individual who applies for benefits under subsection (c)(8) shall provide one (1) of the following:

- (1) A report of a law enforcement agency (as defined in ~~IC 5-2-5-1~~; **IC 10-13-3-10**).
- (2) A protection order issued under IC 34-26-5.
- (3) A foreign protection order (as defined in IC 34-6-2-48.5).
- (4) An affidavit from a domestic violence service provider verifying services provided to the individual by the domestic violence service provider.

SECTION 83. IC 22-4-15-2, AS AMENDED BY P.L.189-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

- (1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;
- (2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or
- (3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's

claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

- (1) the degree of risk involved to such individual's health, safety, and morals;
- (2) the individual's physical fitness and prior training and experience;
- (3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and
- (4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved. For an individual who is ~~not disqualified under~~ **subject to** section 1(c)(8) of this chapter, the determination of suitable work for the individual must reasonably accommodate the individual's need to address the physical, psychological, legal, and other effects of

domestic or family violence.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.
- (2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
- (3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.
- (4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:
 - (A) the individual's average weekly benefit amount for the individual's benefit year; plus
 - (B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.
- (2) If the position was not offered to the individual in writing or

was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 84. IC 22-4-17-2, AS AMENDED BY P.L.273-2003, SECTION 5, AND AS AMENDED BY P.L.189-2003, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of the individual's status as an insured worker in a form prescribed by the board. A written notice of the determination of insured status shall be furnished to the individual promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ~~twenty (20)~~ ten (10) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) *Except as provided in subsection (i)*, the department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's

benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within ~~twenty (20)~~ *ten (10)* days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ~~twenty (20)~~ *ten (10)* days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the board.

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in IC 22-4-17-3.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ~~twenty (20)~~ *ten (10)* days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the

claimant or the employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within ~~twenty-five (25)~~ fifteen (15) days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the commissioner in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) ~~No~~ A person may *not* participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

(i) *If an allegation of the applicability of IC 22-4-15-1(c)(8) is made*

by the individual at the time of the claim for benefits, the department shall not notify the employer that a claim for benefits has been made.

SECTION 85. IC 22-13-4-7, AS ADDED BY P.L.112-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section applies only to new construction of the following dwellings:

(1) A detached one (1) or two (2) family dwelling.

(2) A townhouse.

(b) This section does not apply to a mobile structure or **an** industrialized building system.

(c) As used in this section, "environmental controls" means switches or devices that control or regulate lights, temperature, fuses, fans, doors, security system features, or other features.

(d) As used in this section, "new construction" means the construction of a new dwelling on a vacant lot. The term does not include an addition to or remodeling of an existing building.

(e) As used in this section, "townhouse" means a single family dwelling unit constructed in a row of attached units separated by property lines and with open space on at least two (2) sides.

(f) As used in this section, "visitability feature" means a design feature of a dwelling that allows a person with a mobility impairment to enter and comfortably stay in a dwelling for a duration of time. The term includes features that allow a person with a mobility impairment to get in and out through one (1) exterior door of the dwelling without any steps and to pass through all main floor interior doors, including a bathroom **door**.

(g) If a person contracts with a designer and a builder for construction of a visitability feature in the new construction of a dwelling, the designer and builder shall comply with the standards adopted by the commission under this section for **the** construction and design of the visitability feature. The standards adopted under this section:

(1) shall be enforced by a political subdivision that enforces the commission's standards with respect to Class 2 structures; and

(2) may not be enforced by the department.

(h) The commission shall adopt minimum standards by rule under IC 4-22-2 for visitability features in the new construction of a dwelling. The rules shall include minimum standards for the following:

- (1) Entrances to the dwelling, including paths from the dwelling to the street.
- (2) Room dimensions.
- (3) The width of exterior and interior doors.
- (4) The width of interior hallways.
- (5) The grade of interior thresholds and hallways.
- (6) The height and location of environmental controls.
- (7) The reinforcement of bathroom walls sufficient to attach grab bars.

SECTION 86. IC 23-7-8-2, AS AMENDED BY P.L.155-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person may not act as a professional fundraiser consultant or professional solicitor for a charitable organization unless the person has first registered with the division. A person who applies for registration shall disclose the following information while under oath:

- (1) The names and addresses of all officers, employees, and agents who are actively involved in fundraising or related activities.
- (2) The names and addresses of all persons who own a ten percent (10%) or more interest in the registrant.
- (3) A description of any other business related to fundraising conducted by the registrant or any person who owns ten percent (10%) or more interest.
- (4) The name or names under which it intends to solicit contributions.
- (5) Whether the organization has ever had its registration denied, suspended, revoked, or enjoined by any court or other governmental authority.

(b) A registrant shall notify the division in writing within one hundred eighty (180) days of any change in the information contained in the registration. However, if requested by the division, the solicitor has fifteen (15) days to notify the division of any change in the information.

(c) Before acting as a professional fundraiser consultant for a particular charitable organization, the consultant must enter into a written contract with the organization and file this contract with the division. The contract must identify the services that the professional

fundraiser consultant is to provide, including whether the professional fundraiser consultant will at any time have custody of contributions.

(d) Before a professional solicitor engages in a solicitation, the professional solicitor must have a contract which is filed with the division. This contract must specify the percentage of gross contributions which the charitable organization will receive or the terms upon which a determination can be made as to the amount of the gross revenue from the solicitation campaign that the charitable organization will receive. The amount of gross revenue from the solicitation campaign that the charitable organization will receive must be expressed as a fixed percentage of the gross revenue or expressed as a reasonable estimate of the percentage of the gross revenue. If a reasonable estimate is used, the contract must clearly disclose the assumptions or a formula upon which the estimate is based. If a fixed percentage is used, the percentage must exclude any amount that the charitable organization is to pay as expenses of the solicitation campaign, including the cost of the merchandise or services sold. If requested by the charitable organization, the person who solicits must at the conclusion of a charitable appeal provide to the charitable organization the names and addresses of all contributors, the amount of each contribution, and a final accounting of all expenditures. Such information may not be used in violation of any trade secret laws. The contract must disclose the average percentage of gross contributions collected on behalf of charitable organizations that the charitable organizations received from the professional solicitor for the three (3) years preceding the year in which the contract is formed.

(e) Before beginning a solicitation campaign, a professional solicitor must file a solicitation notice with the division. The notice must include the following:

- (1) A copy of the contract described in subsection (d).
- (2) The projected dates when soliciting will begin and end.
- (3) The location and telephone number from where solicitation will be conducted.
- (4) The name and residence address of each person responsible for directing and supervising the conduct of the campaign. However, the division shall not divulge the residence address unless ordered to do so by a court of competent jurisdiction, or in furtherance of the prosecution of a violation under this chapter.

(5) If the solicitation is one described under section ~~7(a)(2)~~ **7(a)(3)** of this chapter, the solicitation notice must include a copy of the required written authorization.

(f) Not later than ninety (90) days after a solicitation campaign has ended and not later than ninety (90) days after the anniversary of the commencement of a solicitation campaign lasting more than one (1) year, a professional solicitor shall submit the following information concerning the campaign to the division:

(1) The total gross amount of money raised by the professional solicitor and the charitable organization from donors.

(2) The total amount of money paid to or retained by the professional solicitor.

(3) The total amount of money, not including the amount identified under subdivision (2), paid by the charitable organization as expenses as part of the solicitation campaign.

(4) The total amount of money paid to or retained by the charitable organization after the amounts identified under ~~subdivision~~ **subdivisions** (2) and (3) are deducted.

The division may deny or revoke the registration of a professional solicitor who fails to comply with this subsection.

(g) The charitable organization on whose behalf the professional solicitor is acting must certify that the information filed under subsections (e) and (f) is true and complete to the best of its knowledge.

(h) At the beginning of each solicitation call, a professional fundraiser consultant and a professional solicitor must state all of the following:

(1) The name of the company for whom the professional fundraiser consultant or professional solicitor is calling.

(2) The name of the professional fundraiser consultant or professional solicitor.

(3) The phone number and address of the location from which the professional fundraiser consultant or professional solicitor is making the telephone call.

(4) The percentage of the charitable contribution that will be expended for charitable purposes after administrative costs and the costs of making the solicitation have been satisfied.

SECTION 87. IC 24-3-5-7, AS ADDED BY P.L.253-2003,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A merchant who delivers tobacco products to a customer as part of a delivery sale shall:

- (1) collect and pay all applicable taxes under IC 6-7-1 and IC 6-7-2; or
- (2) place a legible and conspicuous notice on the outside of the container in which the tobacco products are shipped. The notice shall be placed on the same side of the container as the address to which the container is shipped and must state the following:

"If these tobacco products have been shipped to you from a merchant located outside the state in which you reside, the merchant has under federal law reported information about the sale of these tobacco products, including your name and address, to your state tax collection agency. You are legally responsible for all applicable unpaid state taxes on these tobacco products."

(b) For a violation of this section the alcohol and tobacco commission may impose, in addition to any other remedies, civil penalties as follows:

- (1) If the person has one (1) judgment for a violation of this section committed during a five (5) year period, a civil penalty of at least one thousand dollars (\$1,000) **and but** not more than two thousand dollars (\$2,000).
- (2) If the person has two (2) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least two thousand five hundred dollars (\$2,500) **and but** not more than three thousand five hundred dollars (\$3,500).
- (3) If the person has three (3) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least four thousand dollars (\$4,000) **and but** not more than five thousand dollars (\$5,000).
- (4) If the person has four (4) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least five thousand five hundred dollars (\$5,500) **and but** not more than six thousand five hundred dollars (\$6,500).
- (5) If the person has at least five (5) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of ten thousand dollars (\$10,000).

SECTION 88. IC 24-3-5.2-7, AS ADDED BY P.L.117-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A merchant who delivers cigarettes to a customer as part of a delivery sale shall:

- (1) collect and pay all applicable taxes under IC 6-7-1; or
- (2) place a legible and conspicuous notice on the outside of the container in which the cigarettes are shipped. The notice shall be placed on the same side of the container as the address to which the container is shipped and must state the following:

"If these cigarettes have been shipped to you from a merchant located outside the state in which you reside, the merchant has under federal law reported information about the sale of these cigarettes, including your name and address, to your state tax collection agency. You are legally responsible for all applicable unpaid state taxes on these cigarettes."

In addition to the requirements in subsections (1) and (2), as part of a delivery sale the merchant shall inform the customer in writing of all state taxes imposed by the customer's state of residence, including a computation of the amount of taxes due.

(b) The alcohol and tobacco commission may impose, in addition to any other remedies, civil penalties as follows:

- (1) If the defendant has one (1) judgment for a violation of this section committed during a five (5) year period, a civil penalty of at least one thousand dollars (\$1,000) **and but** not more than two thousand dollars (\$2,000).
- (2) If the defendant has two (2) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least two thousand five hundred dollars (\$2,500) **and but** not more than three thousand five hundred dollars (\$3,500).
- (3) If the defendant has three (3) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least four thousand dollars (\$4,000) **and but** not more than five thousand dollars (\$5,000).
- (4) If the defendant has four (4) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least five thousand five hundred dollars (\$5,500) **and but** not more than six thousand five hundred dollars (\$6,500).

(5) If the defendant has at least five (5) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of ten thousand dollars (\$10,000).

SECTION 89. IC 24-3-5.2-8, AS ADDED BY P.L.117-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The alcohol and tobacco commission may impose a civil penalty of not more **than** one thousand dollars (\$1,000) on a:

- (1) customer who signs another person's name to a statement required under section 4(1) of this chapter; or
- (2) merchant who sells cigarettes by delivery sale to a person less than eighteen (18) years of age.

The alcohol and tobacco commission shall deposit amounts collected under this section into the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

SECTION 90. IC 24-4.7-1-1, AS ADDED BY P.L.189-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This article does not apply to any of the following:

- (1) A telephone call made in response to an express request of the person called.
- (2) A telephone call made primarily in connection with an existing debt or contract for which payment or performance has not been completed at the time of the call.
- (3) A telephone call made on behalf of a charitable organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code, but only if all of the following apply:
 - (A) The telephone call is made by a volunteer or an employee of the charitable organization.
 - (B) The telephone solicitor who makes the telephone call immediately discloses all of the following information upon making contact with the consumer:
 - (i) The solicitor's true first and last name.
 - (ii) The name, address, and telephone number of the charitable organization.

- (4) A telephone call made by an individual licensed under IC 25-34.1 if:

- (A) the sale of goods or services is not completed; and

(B) the payment or authorization of payment is not required; until after a face to face sales presentation by the seller.

(5) A telephone call made by an individual licensed under ~~IC 27-1-15.5~~ **IC 27-1-15.6 or IC 27-1-15.8** when the individual is soliciting an application for insurance or negotiating a policy of insurance on behalf of an insurer (as defined in IC 27-1-2-3).

(6) A telephone call soliciting the sale of a newspaper of general circulation, but only if the telephone call is made by a volunteer or an employee of the newspaper.

SECTION 91. IC 24-5-22-7, AS ADDED BY P.L.36-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) For purposes of this section, a person knows that the intended recipient of a commercial electronic mail message is an Indiana resident if that information is available, upon request, from the registrant of the Internet domain name contained in the recipient's electronic mail address.

(b) Subsection (c) applies only to a commercial electronic mail message that:

(1) uses a third party's Internet domain name without permission of the third party;

(2) otherwise misrepresents or obscures any information in identifying the point of origin or the transmission path of the commercial electronic mail message; or

(3) contains false or misleading information in the subject line.

(c) A person may not initiate or assist in the transmission of a commercial electronic mail message described in subsection (b):

(1) from a computer located in Indiana; or

(2) to an electronic mail address that the sender:

(A) knows; or

(B) has reason to know;

is held by a resident of Indiana.

SECTION 92. IC 25-14-1-27.5, AS ADDED BY P.L.210-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.5. (a) The board may issue an instructor's license to an individual who is not otherwise licensed to practice dentistry in Indiana if the individual meets the following conditions:

(1) The individual has been licensed or has had the equivalent of a license for five (5) of the preceding nine (9) years to practice

dentistry in the United States or in any country, territory, or other recognized jurisdiction.

(2) The individual has been approved under the credentialing process of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry that is accredited by:

(A) the American Dental Association Commission on Dental Accreditation; or

(B) the Joint Commission on Accreditation of Health Care Organizations.

(3) The individual has successfully documented or demonstrated clinical and academic competency to the board.

(4) The individual is fluent in the English language.

(5) The individual passes the written law examination administered by the board.

(6) The individual meets the continuing education requirements required by IC 25-14-3.

(7) The individual pays the licensing fee set by the board under subsection (f).

(b) A license issued under this section must be held by the Indiana school of dentistry for which the licensee is employed.

(c) A license issued under this section does not meet the requirements of ~~IC 25-14-1-16~~ **section 16 of this chapter** and may not be used to obtain a general dentistry license under ~~IC 25-14~~. **this article.**

(d) A licensee under this section may teach and practice dentistry only at or on behalf of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry.

(e) An instructor's license is ~~only~~ valid **only** during the time the licensee is employed or has a valid employment contract for a full-time faculty position at the Indiana school of dentistry or an affiliated medical center. The Indiana school of dentistry or the affiliated medical center shall notify the board in writing upon the termination of the employment contract of an individual who is issued a license under this section and surrender the license not later than thirty (30) days after the licensee's employment ceases.

(f) The board shall set a fee for the issuance and renewal of a license under this section.

(g) Unless renewed, a license issued by the board under this section

expires annually on a date specified by the health professions bureau under IC 25-1-5-4. An applicant for renewal must pay the renewal fee set by the board on or before the renewal date specified by the health professions bureau.

(h) Not more than five percent (5%) of the Indiana school of dentistry's full-time faculty may be individuals licensed under this section.

(i) The board shall adopt rules under IC 4-22-2 necessary to implement this section.

(j) This section expires June 30, 2008.

SECTION 93. IC 25-22.5-1-2, AS AMENDED BY P.L.2-2003, SECTION 65, AND AS AMENDED BY P.L.205-2003, SECTION 37, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an *advanced* emergency medical ~~technician~~ *technician-basic advanced* (as defined in ~~IC 16-18-2-6~~ *IC 16-18-2-112.5*), an *emergency medical technician-intermediate* (as defined in *IC 16-18-2-112.7*), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):

(A) during a disaster emergency declared by the governor under ~~IC 10-4-1-7~~ *IC 10-14-3-12* in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

- (4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.
- (5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.
- (6) A person administering a domestic or family remedy to a member of the person's family.
- (7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.
- (8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).
- (9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.
- (10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.
- (11) A dentist practicing the dentist's profession under IC 25-14.
- (12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.
- (13) A nurse practicing the nurse's profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.
- (14) An optometrist practicing the optometrist's profession under IC 25-24.
- (15) A pharmacist practicing the pharmacist's profession under IC 25-26.
- (16) A physical therapist practicing the physical therapist's

profession under IC 25-27.

(17) A podiatrist practicing the podiatrist's profession under IC 25-29.

(18) A psychologist practicing the psychologist's profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

- (A) a physician;
- (B) a psychiatric hospital;
- (C) a hospital;
- (D) a health maintenance organization or limited service health maintenance organization;
- (E) a health facility;
- (F) a dentist;
- (G) a registered or licensed practical nurse;

- (H) a midwife;
- (I) an optometrist;
- (J) a podiatrist;
- (K) a chiropractor;
- (L) a physical therapist; or
- (M) a psychologist.

(23) A physician assistant practicing the physician assistant's profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides care services as defined in IC 16-27-1-0.5.

(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

- (1) the person performs an act that an Indiana statute does not authorize the person to perform; and
- (2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized

to dispense contraceptives or birth control devices.

SECTION 94. IC 25-22.5-5-4.5, AS ADDED BY P.L.184-2003, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) The board may authorize the service bureau to issue temporary fellowship permits for the practice of medicine. A temporary fellowship is subject to any termination date specified by the board.

(b) The board may issue a temporary fellowship permit to a graduate of a school located outside the United States, its possessions, or Canada if the graduate:

- (1) applies in the form and manner required by the board;
- (2) pays a fee set by the board;
- (3) has completed the academic requirements for the degree of doctor of medicine from a medical school approved by the board;
- (4) has been issued a valid permit by another state for participation in a postgraduate medical education or training program located in a state that has standards for postgraduate medical education and training satisfactory to the board;
- (5) has been accepted into a postgraduate medical fellowship training program that:
 - (A) is affiliated with a medical school located in a state that issued a permit under subdivision (4);
 - (B) has a training site located in Indiana; and
 - (C) has standards for postgraduate medical education and training satisfactory to the board;
- (6) provides the board with documentation of the areas of medical practice for which the training is sought;
- (7) provides the board with at least two (2) letters of reference documenting the individual's character; and
- (8) demonstrates to the board that the individual is a physician of good character who is in good standing outside the United States, its possessions, or Canada where the person normally would practice.

(c) Applications for the temporary fellowship permit for graduates of foreign medical schools must be made to the board subject to this section.

(d) A permit issued under this section expires one (1) year after the date it is issued and, at the discretion of the board, may be renewed for

additional one (1) year periods upon the payment of a renewal fee set by the board by rule.

(e) An individual who applies for a temporary fellowship permit under this section is not required to take any step of the United States Medical Licensure Examination.

(f) A temporary fellowship permit must be kept in the possession of the fellowship training institution and surrendered by it to the board within thirty (30) days after the person ceases training in Indiana.

(g) A temporary fellowship permit authorizes a person to practice in the training institution only and, in the course of training, to practice only those medical acts approved by the board but does not authorize the person to practice medicine otherwise.

(h) The board may deny an application for a temporary fellowship permit if the training program that has accepted the applicant has:

(1) violated; or

(2) authorized or permitted a physician to violate;

this section.

(i) A person issued a temporary ~~medical~~ **fellowship** permit under this section must file an affidavit that:

(1) is signed by a physician licensed in Indiana;

(2) includes the license number of the signing physician;

(3) attests that the physician will monitor the work of the physician holding the temporary ~~medical~~ **fellowship** permit; and

(4) is notarized.

The affidavit must be filed with the ~~service~~ bureau before the person holding the temporary ~~medical~~ **fellowship** permit may provide medical services.

(j) This section expires July 1, 2008.

SECTION 95. IC 25-26-13-25, AS AMENDED BY P.L.182-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly

authorized agent or representative.

(b) Except as provided in subsection (c), ~~before the expiration of subsection (c) on June 30, 2003~~, a prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written or oral authorization of a licensed practitioner.

(c) A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written or oral authorization of a licensed practitioner if all of the following conditions are met:

(1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.

(3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:

(A) All of the authorized refills have been dispensed.

(B) The prescription has expired under subsection (f).

(4) The prescription for which the patient requests the refill was:

(A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or

(B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.

(5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.

(6) The pharmacist shall document the following information regarding the refill:

(A) The information required for any refill dispensed under subsection (d).

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill".

(d) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

(e) The original prescription form or the other board approved

record described in subsection (d) must indicate by the number of the original prescription the following information:

- (1) The name and dosage form of the drug.
- (2) The date of each refill.
- (3) The quantity dispensed.
- (4) The identity of the pharmacist who dispensed the refill.
- (5) The total number of refills for that prescription.
- (f) A prescription is valid for not more than one (1) year after the original date of issue.
- (g) A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.
- (h) A pharmacist may not knowingly dispense a prescription after the demise of the patient.
- (i) A pharmacist or a pharmacy shall not resell, reuse, or redistribute a medication that is returned to the pharmacy after being dispensed unless the medication:
 - (1) was dispensed to a patient residing in an institutional facility (as defined in ~~856 IAC 1-28-1(a)~~; **856 IAC 1-28.1-1(6)**);
 - (2) was properly stored and securely maintained according to sound pharmacy practices;
 - (3) is returned unopened and:
 - (A) was dispensed in the manufacturer's original:
 - (i) bulk, multiple dose container with an unbroken tamper resistant seal; or
 - (ii) unit dose package; or
 - (B) was packaged by the dispensing pharmacy in a:
 - (i) multiple dose blister container; or
 - (ii) unit dose package;
 - (4) was dispensed by the same pharmacy as the pharmacy accepting the return;
 - (5) is not expired; and
 - (6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a Type II permit (as described in IC 25-26-13-17).
- (j) A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under subsection (i).
- (k) A pharmacist who violates subsection (c) commits a Class A

infraction.

SECTION 96. IC 27-1-25-1, AS AMENDED BY P.L.160-2003, SECTION 4, AND AS AMENDED BY P.L.178-2003, SECTION 27, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

(a) "Administrator", except as provided in section 7.5 of this chapter, means a person who *directly or indirectly and on behalf of an insurer underwrites*, collects charges or premiums from, or ~~who~~ adjusts or settles claims on residents of Indiana in connection with life, annuity, or health coverage ~~or annuities; whether offered or provided for~~ by an insurer. ~~or a self-funded plan~~. The term "administrator" does not include the following persons:

(1) An employer ~~for its or a wholly owned direct or indirect subsidiary of an employer acting on behalf of the employees or for the employees~~ of: *a*

(A) *the employer;*

(B) *the subsidiary; or*

(C) *an affiliated corporation of the employer.*

(2) A union *acting* for its members.

(3) An insurer. ~~including:~~

~~(A) an insurer operating a health maintenance organization or a limited service health maintenance organization; and~~

~~(B) the sales representative of an insurer operating a health maintenance organization or a limited service health maintenance organization when that sales representative is licensed in Indiana and when it is engaged in the performance of its duties as the sales representative.~~

(4) ~~A life or health~~ An insurance producer:

(A) that is licensed under IC 27-1-15.6;

(B) that has:

(i) *a life; or*

(ii) *an accident and health or sickness;*

qualification under IC 27-1-15.6-7; and

(C) whose activities are limited exclusively to the sale of insurance.

(5) A creditor *acting* for its debtors regarding insurance covering a debt between them.

(6) A trust established under 29 U.S.C. 186 and the trustees,

agents, and employees acting pursuant to that trust.

(7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:

- (A) the trustees and employees acting pursuant to that trust; or
- (B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.

(8) A financial institution that is subject to supervision or examination by federal or state banking authorities *to the extent that the financial institution collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.*

(9) A credit card issuing company that:

- (A) advances for; and
- (B) collects from, when a credit card holder authorizes the collection;

credit card holders of the credit card issuing company, insurance premiums or charges. from its credit cardholders as long as that company does not adjust or settle claims.

(10) ~~An individual who~~ *A person that* adjusts or settles claims in the normal course of ~~his~~ *the person's* practice or employment as an attorney at law and ~~who~~ *that* does not collect charges or premiums in connection with life, annuity, or health ~~insurance~~ coverage. ~~or annuities.~~

(11) A health maintenance organization that has a certificate of authority issued under IC 27-13.

(12) A limited service health maintenance organization that has a certificate of authority issued under IC 27-13.

(13) A mortgage lender to the extent that the mortgage lender collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.

(14) *A person that:*

- (A) is licensed as a managing general agent as required under IC 27-1-33; and*
- (B) acts exclusively within the scope of activities provided for under the license referred to in clause (A).*

(15) *A person that:*

- (A) directly or indirectly underwrites, collects charges or*

premiums from, or adjusts or settles claims on residents of Indiana in connection with life, annuity, or health coverage provided by an insurer;

(B) is affiliated with the insurer; and

(C) performs the duties specified in clause (A) only according to a contract between the person and the insurer for the direct and assumed life, annuity, or health coverage provided by the insurer.

~~(b)~~ "Certificate of registration" refers to the certificate required by section 11 of this chapter.

(b) "Affiliate" means an entity or a person that:

(1) directly or indirectly through an intermediary controls or is controlled by; or

(2) is under common control with;

a specified entity or person.

(c) "Church plan" has the meaning set forth in IC 27-8-10-1.

(d) "Commissioner" refers to the insurance commissioner of insurance appointed under IC 27-1-1-2.

~~(d)~~ (e) "Control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether:

(1) through ownership of voting securities;

(2) by contract other than a commercial contract for goods or nonmanagement services; or

(3) otherwise;

unless the power is the result of an official position with the person or a corporate office held by the person. Control is presumed to exist if a person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing not less than ten percent (10%) of the voting securities of another person.

(f) "Covered individual" means an individual who is covered under a benefit program provided by an insurer.

(g) "Financial institution" means a bank, savings association, credit union, or any other institution regulated under IC 28 or federal law.

~~(e)~~ (h) "GAAP" refers to consistently applied United States generally accepted accounting principles.

(i) "Governmental plan" has the meaning set forth in IC 27-8-10-1.

(j) "Home state" means the District of Columbia or any state or

territory of the United States in which an administrator is incorporated or maintains the administrator's principal place of business. If the place in which the administrator is incorporated or maintains the administrator's principal place of business is not governed by a law that is substantially similar to this chapter, the administrator's home state is another state:

- (1) in which the administrator conducts the business of the administrator; and*
- (2) that the administrator declares is the administrator's home state.*
- (k) "Insurance producer" has the meaning set forth in IC 27-1-15.6-2.*
- (l) "Insurer" means:*
 - (1) a person who obtains a certificate of authority under:*
 - (A) IC 27-1-3-20;*
 - (B) IC 27-13-3; or*
 - (C) IC 27-13-34; or*
 - (2) an employer that provides life, health, or annuity coverage in Indiana under a governmental plan or a church plan.*
- (m) "NAIC" refers to the National Association of Insurance Commissioners.*
- (n) "Negotiate" has the meaning set forth in IC 27-1-15.6-2.*
- (o) "Nonresident administrator" means a person that applies for or holds a license under section 12.2 of this chapter.*
- ~~(p) "Person" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association.~~*
- ~~(g) "Self-funded plan" means a plan for providing benefits for life, health, or annuity coverage by a person who is not an insurer; has the meaning set forth in IC 27-1-15.6-2.~~*
- (q) "Sell" has the meaning set forth in IC 27-1-15.6-2.*
- (r) "Solicit" has the meaning set forth in IC 27-1-15.6-2.*
- (s) "Underwrite" refers to the:*
 - (1) acceptance of a group application or an individual application for coverage of an individual in accordance with the written rules of the insurer; or*
 - (2) planning and coordination of a benefit program provided by an insurer.*
- (t) "Uniform application" means the current version of the NAIC*

uniform application for third party administrators.

SECTION 97. IC 27-4-1-4, AS AMENDED BY P.L.178-2003, SECTION 35, AS AMENDED BY P.L.201-2003, SECTION 2, AND AS AMENDED BY P.L.211-2003, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender ~~his~~ *the policyholder's* insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of ~~his~~ *the person's* insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making,

publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant

factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

- (i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;
- (ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or
- (iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or

policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or *agent insurance producer* thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed *agent insurance producer* thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker,

~~agent, an insurance producer~~, or a solicitor duly licensed under the laws of this state, but such broker, ~~agent, insurance producer~~, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance ~~agent producer~~ or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of ~~its or his~~ the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of ~~agents insurance producers~~ or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, ~~agent, insurance producer~~, or broker or brokers. However, this subdivision shall not prevent the exercise

by any seller of such property or the one making a loan thereon of ~~his, her, or its~~ the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) *Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.*

~~(25)~~ **(26)** *Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or IC 27-8-5-19.2.*

~~(25)~~ **(27)** *Violating IC 27-2-21 concerning use of credit information.*

SECTION 98. IC 27-7-6-6, AS AMENDED BY P.L.160-2003, SECTION 24, AND AS AMENDED BY P.L.178-2003, SECTION 46, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at

the address shown in the policy, at least twenty (20) days' advance notice of its intention not to renew. In the event such policy was procured by an *agent insurance producer* duly licensed by the state of Indiana notice of intent not to renew shall be mailed or delivered to ~~such agent~~ *the insurance producer* at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by ~~such agent~~ *the insurance producer*.

(b) This section shall not apply:

- ~~(a)~~ (1) if the insurer has manifested its willingness to renew; ~~nor~~
~~or~~
- ~~(b)~~ (2) in case of nonpayment of premium.

~~Provided, That, However,~~ notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

(c) *A notice of intention not to renew is not required if:*

- (1) the insured is transferred from an insurer to an affiliate of the insurer for future coverage as a result of a merger, an acquisition, or a company restructuring;*
- (2) the transfer results in the same or broader coverage; and*
- (3) the insured approves the transfer.*

(d) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

SECTION 99. IC 27-8-10-2.1, AS AMENDED BY P.L.178-2003, SECTION 63, AND AS AMENDED BY P.L.193-2003, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. (a) There is established a nonprofit legal entity to be referred to as the Indiana comprehensive health insurance association, which must assure that health insurance is made available throughout the year to each eligible Indiana resident applying to the association for coverage. All carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers providing health insurance or health care services in Indiana must be members of the association. The association shall operate under a plan of operation established and approved under subsection (c) and shall exercise its powers through a board of directors established under this section.

(b) The board of directors of the association consists of ~~seven (7)~~ *nine (9)* members whose principal residence is in Indiana selected as follows:

(1) ~~Three (3)~~ *Four (4)* members to be appointed by the commissioner from the members of the association, one (1) of which must be a representative of a health maintenance organization.

(2) Two (2) members to be appointed by the commissioner shall be consumers representing policyholders.

(3) Two (2) members shall be the state budget director or designee and the commissioner of the department of insurance or designee.

(4) *One (1) member to be appointed by the commissioner must be a representative of health care providers.*

The commissioner shall appoint the chairman of the board, and the board shall elect a secretary from its membership. The term of office of each appointed member is three (3) years, subject to eligibility for reappointment. Members of the board who are not state employees may be reimbursed from the association's funds for expenses incurred in attending meetings. The board shall meet at least semiannually, with the first meeting to be held not later than May 15 of each year.

(c) The association shall submit to the commissioner a plan of operation for the association and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation becomes effective upon approval in writing by the commissioner consistent with the date on which the coverage under this chapter must be made available. The commissioner shall, after notice and hearing, approve the plan of operation if the plan is determined to be suitable to assure the fair, reasonable, and equitable administration of the association and provides for the sharing of association losses on an equitable, proportionate basis among the member carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers. If the association fails to submit a suitable plan of operation within one hundred eighty (180) days after the appointment of the board of directors, or at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall adopt rules under IC 4-22-2 necessary or advisable to implement this

section. These rules are effective until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. The plan of operation must:

- (1) establish procedures for the handling and accounting of assets and money of the association;
- (2) establish the amount and method of reimbursing members of the board;
- (3) establish regular times and places for meetings of the board of directors;
- (4) establish procedures for records to be kept of all financial transactions, and for the annual fiscal reporting to the commissioner;
- (5) establish procedures whereby selections for the board of directors will be made and submitted to the commissioner for approval;
- (6) contain additional provisions necessary or proper for the execution of the powers and duties of the association; and
- (7) establish procedures for the periodic advertising of the general availability of the health insurance coverages from the association.

(d) The plan of operation may provide that any of the powers and duties of the association be delegated to a person who will perform functions similar to those of this association. A delegation under this section takes effect only with the approval of both the board of directors and the commissioner. The commissioner may not approve a delegation unless the protections afforded to the insured are substantially equivalent to or greater than those provided under this chapter.

(e) The association has the general powers and authority enumerated by this subsection in accordance with the plan of operation approved by the commissioner under subsection (c). The association has the general powers and authority granted under the laws of Indiana to carriers licensed to transact the kinds of health care services or health insurance described in section 1 of this chapter and also has the specific authority to do the following:

- (1) Enter into contracts as are necessary or proper to carry out this chapter, subject to the approval of the commissioner.
- (2) Sue or be sued, including taking any legal actions necessary

or proper for recovery of any assessments for, on behalf of, or against participating carriers.

(3) Take legal action necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association.

(4) Establish a medical review committee to determine the reasonably appropriate level and extent of health care services in each instance.

(5) Establish appropriate rates, scales of rates, rate classifications and rating adjustments, such rates not to be unreasonable in relation to the coverage provided and the reasonable operational expenses of the association.

(6) Pool risks among members.

(7) Issue policies of insurance on an indemnity or provision of service basis providing the coverage required by this chapter.

(8) Administer separate pools, separate accounts, or other plans or arrangements considered appropriate for separate members or groups of members.

(9) Operate and administer any combination of plans, pools, or other mechanisms considered appropriate to best accomplish the fair and equitable operation of the association.

(10) Appoint from among members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the association, policy and other contract design, and any other function within the authority of the association.

(11) Hire an independent consultant.

(12) Develop a method of advising applicants of the availability of other coverages outside the association. *and may promulgate a list of health conditions the existence of which would deem an applicant eligible without demonstrating a rejection of coverage by one (1) carrier.*

(13) Provide for the use of managed care plans for insureds, including the use of:

(A) health maintenance organizations; and

(B) preferred provider plans.

(14) Solicit bids directly from providers for coverage under this chapter.

(f) *The board shall obtain an actuarial recommendation for development of an equitable methodology for determination of member assessments.*

(g) Rates for coverages issued by the association may not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable expenses of providing the coverage. Separate scales of premium rates based on age apply for individual risks. Premium rates must take into consideration the extra morbidity and administration expenses, if any, for risks insured in the association. The rates for a given classification may ~~not~~ be:

(1) *not more than one hundred fifty percent (150%) of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year for an insured whose family income is less than three hundred fifty-one percent (351%) of the federal income poverty level for the same size family; and*

(2) *an amount equal to:*

(A) *not less than one hundred fifty-one percent (151%); and*

(B) *not more than two hundred percent (200%);*

of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year, for an insured whose family income is more than three hundred fifty percent (350%) of the federal income poverty level for the same size family.

In determining the average rate of the five (5) largest carriers, the rates charged by the carriers shall be actuarially adjusted to determine the rate that would have been charged for benefits identical to those issued by the association. All rates adopted by the association must be submitted to the commissioner for approval.

~~(g)~~ (h) Following the close of the association's fiscal year, the association shall determine the net premiums, the expenses of administration, and the incurred losses for the year. Any net loss shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state of Indiana, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association or any other equitable basis as may be provided in the plan of operation.

For self-insurers, health maintenance organizations, and limited service health maintenance organizations that are members of the association, the proportionate share of losses must be determined through the application of an equitable formula based upon claims paid, excluding claims for Medicaid contracts with the state of Indiana, or the value of services provided. In sharing losses, the association may abate or defer in any part the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for interim assessments against members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the association's next fiscal year is completed. *Except as provided in sections 12 and 13 of this chapter*, net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums. Assessments must be determined by the board members specified in subsection (b)(1), subject to final approval by the commissioner.

~~(h)~~ (i) The association shall conduct periodic audits to assure the general accuracy of the financial data submitted to the association, and the association shall have an annual audit of its operations by an independent certified public accountant.

~~(i)~~ (j) The association is subject to examination by the department of insurance under IC 27-1-3.1. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

~~(j)~~ (k) All policy forms issued by the association must conform in substance to prototype forms developed by the association, must in all other respects conform to the requirements of this chapter, and must be filed with and approved by the commissioner before their use.

~~(k)~~ (l) The association may not issue an association policy to any individual who, on the effective date of the coverage applied for, does not meet the eligibility requirements of section 5.1 of this chapter.

~~(l)~~ *The association shall pay an agent's insurance producer's referral fee of twenty-five dollars (\$25) to each insurance agent producer who refers an applicant to the association if that applicant is accepted.*

(m) The association and the premium collected by the association

shall be exempt from the premium tax, the adjusted gross income tax, or any combination of these upon revenues or income that may be imposed by the state.

(n) Members who after July 1, 1983, during any calendar year, have paid one (1) or more assessments levied under this chapter may either:

(1) take a credit against premium taxes, adjusted gross income taxes, or any combination of these, or similar taxes upon revenues or income of member insurers that may be imposed by the state, up to the amount of the taxes due for each calendar year in which the assessments were paid and for succeeding years until the aggregate of those assessments have been offset by either credits against those taxes or refunds from the association; or

(2) any member insurer may include in the rates for premiums charged for insurance policies to which this chapter applies amounts sufficient to recoup a sum equal to the amounts paid to the association by the member less any amounts returned to the member insurer by the association, and the rates shall not be deemed excessive by virtue of including an amount reasonably calculated to recoup assessments paid by the member.

(o) The association shall provide for the option of monthly collection of premiums.

SECTION 100. IC 27-8-10-5.1, AS AMENDED BY P.L.193-2003, SECTION 7, AND AS AMENDED BY P.L.211-2003, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) *A person is not eligible for an association policy if the person is eligible for Medicaid. A person other than a federally eligible individual may not apply for an association policy unless the person has applied for Medicaid not more than sixty (60) days before applying for the association policy.*

(b) Except as provided in ~~subsections (b), and~~ subsection (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. *However, an offer of coverage described in IC 27-8-5-2.5(e) or IC 27-8-5-19.2(e) does not affect an individual's eligibility for an association policy under this subsection.* Coverage under any association policy is in excess of, and may not duplicate, coverage

under any other form of health insurance.

~~(b)~~ (c) Except as provided in IC 27-13-16-4 and subsection (a), a person is eligible for an association policy upon a showing that:

- (1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;
- (2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or
- (3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

~~(c)~~ *The board of directors may establish procedures that would permit:*

- ~~(1) an association policy to be issued to persons who are covered by a group insurance arrangement when that person or a dependent's health condition is such that the group's coverage is in jeopardy of termination or material rate increases because of that person's or dependent's medical claims experience; and~~
- ~~(2) an association policy to be issued without any limitation on preexisting conditions to a person who is covered by a health insurance arrangement when that person's coverage is scheduled to terminate for any reason beyond the person's control.~~

(d) Coverage under an association policy terminates as follows:

- (1) On the first date on which an insured is no longer a resident of Indiana.
- (2) On the date on which an insured requests cancellation of the association policy.
- (3) On the date of the death of an insured.
- (4) At the end of the policy period for which the premium has been paid.
- (5) On the first date on which the insured no longer meets the eligibility requirements under this section.

~~(d)~~ (e) An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child

is enrolled full-time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent is and continues to be both:

- (1) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and
- (2) chiefly dependent upon the person in whose name the contract is issued for support and maintenance.

However, proof of such incapacity and dependency must be furnished to the carrier within one hundred twenty (120) days of the child's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

~~(e)~~ (f) An association policy that provides coverage for a family member of the person in whose name the contract is issued must, as to the family member's coverage, also provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the person in whose name the contract is issued from the moment of birth. The coverage for newly born children must consist of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium must be furnished to the carrier within thirty-one (31) days after the date of birth in order to have the coverage continued beyond the thirty-one (31) day period.

~~(f)~~ (g) Except as provided in subsection ~~(g)~~; (h), an association policy may contain provisions under which coverage is excluded during a period of three (3) months following the effective date of coverage as to a given covered individual for preexisting conditions, as long as medical advice or treatment was recommended or received within a period of three (3) months before the effective date of coverage. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

~~(g)~~ (h) If a person applies for an association policy within six (6) months after termination of the person's coverage under a health insurance arrangement and the person meets the eligibility

requirements of subsection ~~(b)~~, (c), then an association policy may not contain provisions under which:

- (1) coverage as to a given individual is delayed to a date after the effective date or excluded from the policy; or
- (2) coverage as to a given condition is denied;

on the basis of a preexisting health condition. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

~~(h)~~ (i) For purposes of this section, coverage under a health insurance arrangement includes, but is not limited to, coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985.

SECTION 101. IC 27-8-10-14, AS ADDED BY P.L.193-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Notwithstanding section 2.1 of this chapter, for the period beginning July 1, 2003, and ending March 15, 2004:

- (1) fifty percent (50%) of any net loss determined under section ~~2.1(g)~~ **2.1(h)** of this chapter shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association; and
- (2) fifty percent (50%) of any net loss determined under section ~~2.1(g)~~ **2.1(h)** of this chapter shall be assessed by the association to all members in proportion to their respective shares of the number of individuals in Indiana who are covered under health insurance provided by a member, excluding individuals who are covered under Medicaid contracts with the state during the calendar year coinciding with or ending during the fiscal year of the association.

(b) This section expires March 15, 2004.

SECTION 102. IC 27-13-1-21.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.3. "Insurance producer" means a person who is a licensed insurance producer under IC 27-1-15.6 and who:**

- (1) solicits, negotiates, effects, procures, delivers, renews, or continues a policy or contract for membership in a health maintenance organization or a prepaid limited health service organization;**
- (2) takes or transmits a membership fee or premium for the policy or contract other than for the insurance producer; or**
- (3) causes the insurance producer to be held out to the public, through advertising or otherwise, as a producer for a health maintenance organization or a prepaid limited health service organization.**

SECTION 103. IC 30-2-8.6-38, AS ADDED BY P.L.3-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) If a transaction, including a declaration with respect to or a transfer of specific property, otherwise satisfies applicable law, the criteria of section 18 of this chapter are satisfied by either of the following:

- (1) The execution and either delivery to the custodial trustee or recording of an instrument in substantially the following form:

TRANSFER UNDER THE
INDIANA UNIFORM CUSTODIAL TRUST ACT

I, _____ (name of transferor or name and representative capacity if a fiduciary), transfer to _____ (name of trustee other than transferor), as custodial trustee for _____ (name of beneficiary) as beneficiary and _____ as distributee on termination of the trust in absence of direction by the beneficiary under the Indiana uniform custodial trust act, the following: (insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Dated: _____

(Signature)

- (2) The execution and the recording or giving notice of its execution to the beneficiary of an instrument in substantially the following form:

DECLARATION OF TRUST UNDER THE
INDIANA UNIFORM CUSTODIAL TRUST ACT

I, _____ (name of owner of property), declare that henceforth I hold as custodial trustee for _____ (name of beneficiary other than transferor) as beneficiary and _____ as distributee on termination of the trust in absence of direction by the beneficiary under the Indiana uniform custodial trust act, the following: (Insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Dated: _____

(Signature)

(b) Customary methods of transferring or evidencing ownership of property may be used to create a custodial trust, including any of the following:

(1) Registration of a security in the name of:

(A) a trust company;

(B) an adult other than the transferor; or

(C) the transferor if the beneficiary is other than the transferor; designated in substance "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(2) Delivery of:

(A) a certificated security, or a document necessary for the transfer of an uncertificated security; and

(B) any necessary endorsement;

to an adult other than the transferor or to a trust company as custodial trustee, accompanied by an instrument in substantially the form prescribed in subsection (a)(1).

(3) Payment of money or transfer of a security held in the name of a broker or a financial institution or its nominee to a broker or financial institution for credit to an account in the name of:

(A) a trust company;

(B) an adult other than the transferor; or

(C) the transferor if the beneficiary is other than the transferor; designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(4) Registration of ownership of a life or endowment insurance policy or annuity contract with the issuer in the name of:

(A) a trust company;

(B) an adult other than the transferor; or

(C) the transferor if the beneficiary is other than the transferor; designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(5) Delivery of a written assignment to:

(A) an adult other than the transferor; or

(B) a trust company;

whose name in the assignment is designated in substance by the words: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(6) Irrevocable exercise of a power of appointment, pursuant to its terms, in favor of:

(A) a trust company;

(B) an adult other than the donee of the power; or

(C) the donee who holds the power if the beneficiary is other than the donee;

whose name in the appointment is designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(7) Delivery of a written notification or assignment of a right to future payment under a contract to an obligor that transfers the right under the contract to:

(A) a trust company;

(B) an adult other than the transferor; or

(C) the transferor if the beneficiary is other than the transferor; whose name in the notification or assignment is designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(8) Execution, delivery, and recordation of a conveyance of an interest in real property in the name of:

(A) a trust company;

(B) an adult other than the transferor; or

(C) the transferor if the beneficiary is other than the transferor; designated in substance: "as custodial trustee for

_____ (name of beneficiary) under the Indiana uniform custodial trust act".

(9) Issuance of a certificate of title by an agency of a state or of the United States that evidences title to tangible personal property:

(A) issued in the name of:

- (i) a trust company;
- (ii) an adult other than the transferor; or
- (iii) the transferor if the beneficiary is other than the transferor;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act"; or

(B) delivered to:

- (i) a trust company; or
- (ii) an adult other than the transferor or endorsed by the transferor to that person;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(10) Execution and delivery of an instrument of gift to:

(A) a trust company; or

(B) an adult other than the transferor;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the **Indiana** uniform custodial trust act".

SECTION 104. IC 31-9-2-42, AS AMENDED BY P.L.189-2003, SECTION 9, AND AS AMENDED BY P.L.221-2003, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 42. "Domestic or family violence" means, except for an act of self defense, the occurrence of one (1) or more of the following acts committed by a family or household member:

(1) Attempting to cause, threatening to cause, or causing physical harm to another family or household member without legal justification.

(2) Placing a family or household member in fear of physical harm without legal justification.

(3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.

For purposes of *IC 22-4-15-1* and *IC 34-26-5*, domestic ~~and~~ **or** family violence also includes stalking (as defined in *IC 35-45-10-1*) or a sex offense under *IC 35-42-4*, *whether or not the stalking or sex offense is committed by a family or household member*.

SECTION 105. *IC 31-9-2-44.5*, AS ADDED BY P.L.133-2002, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 44.5. **(a) An individual is a "family or household member" means: of another person if the individual:**

(1) ~~a person who~~ is a current or former spouse **of the other person;**

(2) ~~a person who~~ is dating or has dated **the other person;**

(3) ~~a person who~~ is engaged or was engaged in a sexual relationship **with the other person;**

(4) ~~a person who~~ is related by blood or adoption **to the other person;**

(5) ~~a person who~~ is ~~related~~ or was related by marriage **to the other person;**

(6) ~~a person who~~ has **or previously had** an established legal relationship: ~~or previously established a legal relationship:~~

(A) as a guardian **of the other person;**

(B) as a ward **of the other person;**

(C) as a custodian **of the other person;**

(D) as a foster parent **of the other person;** or

(E) in a capacity **with respect to the other person** similar to those listed in clauses (A) through (D); **or**

(7) ~~a person who~~ has a child in common ~~and~~ **with the other person.**

~~(8)~~ **(b) An individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) applies if the individual is a minor child of a person in a relationship described in subdivisions (1) through (7): one (1) of the persons.**

SECTION 106. *IC 31-9-2-76.5*, AS ADDED BY P.L.152-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 76.5. "Long term foster parent", for purposes of *IC 31-34-21-4* and ~~*IC 31-34-21-4.6*~~, ***IC 31-34-21-4.5***, has the

meaning set forth in ~~IC 31-34-21-4.6(a)~~. **IC 31-34-21-4.6.**

SECTION 107. IC 31-18-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. "Child" means an individual who is:

- (1) owed or ~~is~~ alleged to be ~~(+)~~ owed a duty of support by the individual's parent; or
- (2) the beneficiary of a support order directed to the parent.

The term includes a child who is over the age of majority.

SECTION 108. IC 31-19-2.5-3, AS ADDED BY P.L.61-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in section 4 of this chapter, notice must be given to a:

- (1) person whose consent to adoption is required under IC 31-19-9-1; and
- (2) putative father who is entitled to notice under IC 31-19-4.

(b) If the parent-child relationship has been terminated under IC 31-35 (or ~~31-6-5~~ **IC 31-6-5** before its repeal), notice of the pendency of the adoption proceedings shall be given to the:

- (1) licensed child placing agency; or
- (2) county office of family and children;

that is the ward of the child.

SECTION 109. IC 32-34-1-20, AS AMENDED BY P.L.107-2003, SECTION 2, AND AS AMENDED BY P.L.224-2003, SECTION 113, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) For purposes of this section, an indication of interest in the property by the owner:

- (1) does not include a communication with an owner by an agent of the holder who has not identified in writing the property to the owner; and
- (2) includes the following:

(A) With respect to an account or underlying shares of stock or other interest in a business association or financial organization:

- (i) the cashing of a dividend check or other instrument of payment received; or
- (ii) evidence that the distribution has been received if the distribution was made by electronic or similar means.

(B) A deposit to or withdrawal from a bank account.

(C) The payment of a premium with respect to a property interest in an insurance policy.

(D) The mailing of any correspondence in writing from a financial institution to the owner, including:

- (i) a statement;
- (ii) a report of interest paid or credited; or
- (iii) any other written advice;

relating to a demand, savings, or matured time deposit account, including a deposit account that is automatically renewable, or any other account or other property the owner has with the financial institution if the correspondence is not returned to the financial institution for nondelivery.

(E) Any activity by the owner that concerns:

- (i) another demand, savings, or matured time deposit account or other account that the owner has with a financial institution, including any activity by the owner that results in an increase or decrease in the amount of any other account; or
- (ii) any other relationship with the financial institution, including the payment of any amounts due on a loan;

if the mailing address for the owner contained in the financial institution's books and records is the same for both an inactive account and for a related account.

(b) The application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before the depletion of the cash surrender value of the policy by the application of those provisions.

(c) Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times:

- (1) For traveler's checks, fifteen (15) years after issuance.
- (2) For money orders, seven (7) years after issuance.
- (3) For consumer credits, three (3) years after the credit becomes payable.

~~(4)~~ For gift certificates, ~~three (3) years after December 31 of the year in which the gift certificate was sold. If the gift certificate is redeemable in merchandise only, the amount abandoned is considered to be sixty percent (60%) of the certificate's face value.~~

~~(5)~~ (4) For amounts owed by an insurer on a life or an endowment insurance policy or an annuity contract:

(A) if the policy or contract has matured or terminated, three (3) years after the obligation to pay arose; or

(B) if the policy or contract is payable upon proof of death, three (3) years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based.

~~(6)~~ (5) For property distributable by a business association in a course of dissolution, one (1) year after the property becomes distributable.

~~(7)~~ (6) For property or proceeds held by a court or a court clerk, ~~other than property or proceeds related to child support~~, five (5) years after the property or proceeds become distributable. The property or proceeds must be treated as unclaimed property under IC 32-34-3. ~~For property or proceeds related to child support held by a court or a court clerk, ten (10) years after the property or proceeds become distributable.~~

~~(8)~~ (7) For property held by a state or other government, governmental subdivision or agency, or public corporation or other public authority, one (1) year after the property becomes distributable.

~~(9)~~ (8) For compensation for personal services, one (1) year after the compensation becomes payable.

~~(10)~~ (9) For deposits and refunds held for subscribers by utilities, one (1) year after the deposits or refunds became payable.

~~(11)~~ (10) For stock or other interest in a business association, five (5) years after the earlier of:

(A) the date of the last dividend, stock split, or other distribution unclaimed by the apparent owner; or

(B) the date of the second mailing of a statement of account or other notification or communication that was:

(i) returned as undeliverable; or

(ii) made after the holder discontinued mailings to the apparent owner.

~~(12)~~ (11) For property in an individual retirement account or another account or plan that is qualified for tax deferral under the Internal Revenue Code, three (3) years after the earliest of:

(A) the actual date of the distribution or attempted distribution;

(B) the distribution date as stated in the plan or trust agreement governing the plan; or

(C) the date specified in the Internal Revenue Code by which distribution must begin in order to avoid a tax penalty.

~~(13)~~ (12) For a demand, savings, or matured time deposit, including a deposit that is automatically renewable, five (5) years after maturity or five (5) years after the date of the last indication by the owner of interest in the property, whichever is earlier. Property that is automatically renewable is considered matured for purposes of this section upon the expiration of its initial period, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder.

~~(14)~~ (13) *For property payable or distributable in the course of a demutualization, rehabilitation, or related reorganization of a mutual insurance company, five (5) years after the earlier of:*

(A) the date of last contact with the policyholder; or

(B) the date the property became payable or distributable.

~~(15)~~ (14) For all other property, the earlier of five (5) years after:

(A) the owner's right to demand the property; or

(B) the obligation to pay or distribute the property;

arose.

(d) Property is payable or distributed for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or a document otherwise required to receive payment.

SECTION 110. IC 32-34-1-31, AS AMENDED BY P.L. 107-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) Except as provided in subsections (b), (c), and (f), the attorney general, not later than three (3) years after the receipt of abandoned property, shall sell the property to the highest bidder at a commercially reasonable public sale that, in the judgment

of the attorney general, affords the most favorable market for the property. The attorney general may decline the highest bid and reoffer the property for sale if, in the judgment of the attorney general, the bid is insufficient. If, in the judgment of the attorney general, the probable cost of the sale exceeds the value of the property, the attorney general is not required to offer the property for sale. A sale held under this section must be preceded, at least three (3) weeks before the sale, by one (1) publication of notice in a newspaper of general circulation published in the county in which the property is to be sold.

(b) If the property is of a type that is customarily sold on a recognized market or that is subject to widely distributed standard price quotations, and if, in the opinion of the attorney general, the probable cost of a public sale to the highest bidder would:

- (1) exceed the value of the property; or
- (2) result in a net loss;

the attorney general may sell the property privately, without notice by publication, at or above the prevailing price for the property at the time of the sale.

(c) Securities shall be sold as soon as reasonably possible following receipt. If a valid claim is made for any securities in the possession of the attorney general, the attorney general may:

- (1) transfer the securities to the claimant; or
- (2) pay the claimant the value of the securities as of the date the securities were delivered to the attorney general.

Notice of the sale of securities is not required. Securities listed on an established stock exchange must be sold at prices prevailing at the time of the sale on the stock exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the attorney general considers reasonable.

(d) A purchaser of property at a sale conducted by the attorney general under this chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them. The attorney general shall execute all documents necessary to complete the transfer of ownership.

(e) A person does not have a claim against the attorney general for any appreciation of property after the property is delivered to the attorney general, except in a case of intentional misconduct or malfeasance by the attorney general.

(f) If property is forwarded to the attorney general and the **report concerning the** property does not have ~~any~~ **all** of the information required under section 26(b)(1) of this chapter or the total value of the property is ten dollars (\$10) or less, the attorney general may immediately:

- (1) sell the property and transmit the proceeds; or
- (2) transfer the property;

to the state general fund.

SECTION 111. IC 33-4-5-7, AS AMENDED BY P.L.195-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A person shall be excused from acting as a juror if the person:

- (1) is over sixty-five (65) years of age;
- (2) is a member in active service of the armed forces of the United States;
- (3) is an elected or appointed official of the executive, legislative, or judicial branches of government of:
 - (A) the United States;
 - (B) Indiana; or
 - (C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

- (4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;
- (5) is an honorary military staff officer appointed by the governor under IC 10-16-2-5;
- (6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-16-8;
- (7) is a veterinarian licensed under IC 15-5-1.1;
- (8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-3-11-2;
- (9) is a dentist licensed under IC 25-14-1;
- (10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or
- (11) would serve as a juror during a criminal trial and the person is:

- (A) an employee of the department of correction whose duties require contact with inmates confined in a department of

correction facility; or

(B) the spouse or child of a person described in clause (A); and desires to be excused for that reason.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) The person is under a sentence imposed for an offense.

(5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony conviction and the rights have not been restored.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

(g) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections (c), (d), and (l), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

- (1) after the person is no longer under a sentence imposed for an offense; or
- (2) after the person has had the person's rights restored following a conviction.

(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

- (1) Whether the person has been subject to:
 - (A) a protective order;
 - (B) a no contact order;
 - (C) a workplace violence restraining order; or
 - (D) any other court order that prohibits the person from possessing a firearm.
- (2) Whether the person has successfully completed a substance abuse program, if applicable.
- (3) Whether the person has successfully completed a parenting class, if applicable.
- (4) Whether the person still presents a threat to the victim of the crime.
- (5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a ~~specified~~ condition **specified** under subsection ~~(d)~~ (i) or whether the person has committed a subsequent offense.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been expunged or if the person has been pardoned.

(l) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

- (1) At the time the prosecuting attorney states on the record that

the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

SECTION 112. IC 33-4-8-3 AS AMENDED BY P.L.94-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A senior judge:

- (1) exercises the jurisdiction granted to the court served by the senior judge;
- (2) may serve as a domestic relations mediator, subject to the code of judicial conduct;
- (3) serves at the pleasure of the supreme court; and
- (4) serves in accordance with rules adopted by the supreme court under IC 33-2-1-8.

A senior judge serving as a domestic relations mediator is not entitled to reimbursement or a per diem under ~~IC 33-4-8-5~~. **section 5 of this chapter.** A senior judge serving as a domestic relations mediator may receive compensation from the alternative dispute resolution fund under IC 33-4-13, in accordance with the county domestic relations alternative dispute resolution plan.

SECTION 113. IC 34-6-2-44.8, AS ADDED BY P.L.133-2002, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 44.8. **(a) An individual is a "family or household member" means: of another person if the individual:**

- (1) ~~a person who~~ is a current or former spouse **of the other person;**
- (2) ~~a person who~~ is dating or has dated **the other person;**
- (3) ~~a person who~~ is engaged or was engaged in a sexual relationship **with the other person;**
- (4) ~~a person who~~ is related by blood or adoption **to the other person;**
- (5) ~~a person who~~ is related or was related by marriage **to the other person;**
- (6) ~~a person who~~ has **or previously had** an established legal relationship: ~~or previously established a legal relationship:~~
 - (A) as a guardian **of the other person;**
 - (B) as a ward **of the other person;**
 - (C) as a custodian **of the other person;**
 - (D) as a foster parent **of the other person;** or

(E) in a capacity **with respect to the other person** similar to those listed in clauses (A) through (D); **or**

(7) ~~a person who~~ has a child in common ~~and with the other person.~~

~~(8)~~ **(b) An individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) applies if the individual is a minor child of a person in a relationship described in subdivisions (1) through (7): one (1) of the persons.**

SECTION 114. IC 34-13-3-4, AS AMENDED BY P.L.108-2003, SECTION 2, AND AS AMENDED BY P.L.161-2003, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The combined aggregate liability of all governmental entities and of all public employees, acting within the scope of their employment and not excluded from liability under section 3 of this chapter, does not exceed:

(1) ~~three hundred thousand dollars (\$300,000)~~ for injury to or death of one (1) person in any one (1) occurrence:

(A) ~~three hundred thousand dollars (\$300,000)~~ for a cause of action that accrues before January 1, 2006;

(B) ~~five hundred thousand dollars (\$500,000)~~ for a cause of action that accrues on or after January 1, 2006, and before January 1, 2008; or

(C) ~~seven hundred thousand dollars (\$700,000)~~ for a cause of action that accrues on or after January 1, 2008; and

~~and (2) does not exceed five million dollars (\$5,000,000) for injury to or death of all persons in that occurrence, five million dollars (\$5,000,000).~~

(b) A governmental entity or an employee of a governmental entity acting within the scope of employment is not liable for punitive damages.

SECTION 115. IC 34-24-1-9, AS ADDED BY P.L.174-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Upon motion of a prosecuting attorney under ~~IC 35-33-5-5(i)~~, **IC 35-33-5-5(j)**, property seized under this chapter must be transferred, subject to the perfected liens or other security interests of any person in the property, to the appropriate federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C.

1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice.

(b) Money received by a law enforcement agency as a result of a forfeiture under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice must be deposited into a nonreverting fund and may be expended only with the approval of:

- (1) the executive (as defined in IC 36-1-2-5), if the money is received by a local law enforcement agency; or
- (2) the governor, if the money is received by a law enforcement agency in the executive branch.

The money received under this subsection must be used solely for the benefit of any agency directly participating in the seizure or forfeiture for purposes consistent with federal laws and regulations.

SECTION 116. IC 34-30-2-45.5, AS AMENDED BY P.L.120-2002, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45.5. IC 12-16-4.5-6 ~~and after June 30, 2004, IC 12-16.1-4-6~~ (Concerning persons who aid a patient in completing an application for assistance under the hospital care for the indigent program).

SECTION 117. IC 34-30-2-45.7, AS AMENDED BY P.L.120-2002, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45.7. IC 12-16-5.5-2 ~~and after June 30, 2004, IC 12-16.1-5-2~~ (Concerning hospitals for providing information verifying indigency of patient).

SECTION 118. IC 34-30-2-45.8, AS ADDED BY P.L.181-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45.8. ~~IC 12-18-8-7 and IC 12-18-8-12~~ **IC 12-18-8-8** (Concerning an entity or a person who **in good faith** provides **a record or report to information that is included in a fatality review performed by** a local domestic violence fatality review team). ~~or members of a local domestic violence fatality review team and persons who attend a meeting of a local child fatality review team as invitees of the chairperson).~~

SECTION 119. IC 34-30-2-45.9, AS AMENDED BY P.L.120-2002, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45.9. IC 12-16-13.5-1 ~~and after June 30, 2004, IC 12-16.1-12-1~~ (Concerning hospitals or persons providing services

under the hospital care for the indigent program).

SECTION 120. IC 34-30-2-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. IC 14-16-1-28 (Concerning landowners or tenants of property used by persons operating ~~off-road recreational vehicles~~; **vehicles for recreational purposes**).

SECTION 121. IC 34-30-2-129.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 129.2. IC 30-2-8.6-32 (Concerning the custodial trustee and beneficiary of a custodial trust).**

SECTION 122. IC 34-30-8-1, AS AMENDED BY P.L.2-2003, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. If a person or entity, other than a person or entity listed in subdivisions (1) through (10), enters into a written agreement to use space in an armory for a function, the following persons and entities are not liable for civil damages for any property damage or bodily injury resulting from the serving of food or beverages at the function held at the armory:

- (1) The state.
- (2) The Indiana army national guard.
- (3) The Indiana air national guard.
- (4) The army national guard of the United States.
- (5) The air national guard of the United States.
- (6) The adjutant general appointed under IC 10-16-2-6.
- (7) The assistant adjutants general appointed under IC 10-16-2-7.
- (8) The officers and enlisted members of the Indiana army national guard and the Indiana air national guard.
- (9) The state armory board appointed under ~~IC 10-10-16-3-1~~ **IC 10-16-3-1** and the members of that board.
- (10) The local armory board appointed under IC 10-16-4-1 for the armory and the members of that board.

SECTION 123. IC 34-30-15-14, AS AMENDED BY P.L.1-1999, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The immunities granted by sections 15 through 20 of this chapter shall not extend to any person who violates the confidentiality requirements of sections 1 through ~~14~~ **13** of this chapter.

SECTION 124. IC 35-41-4-2, AS AMENDED BY P.L.1-2002, SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is commenced:

- (1) within five (5) years after the commission **of the offense, in the case** of a Class B, Class C, or Class D felony; or
- (2) within two (2) years after the commission **of the offense, in the case** of a misdemeanor.

(b) A prosecution for a Class B or Class C felony that would otherwise be barred under this section may be commenced within one (1) year after the earlier of the date on which the state:

- (1) first discovers the identity of the offender with DNA (deoxyribonucleic acid) evidence; or
- (2) could have discovered the identity of the offender with DNA (deoxyribonucleic acid) evidence by the exercise of due diligence.

However, for a Class B or Class C felony in which the state first discovered the identity of an offender with DNA (deoxyribonucleic acid) evidence after the time otherwise allowed for prosecution and before July 1, 2001, the one (1) year period provided in this subsection is extended to July 1, 2002.

(c) A prosecution for a Class A felony may be commenced at any time.

(d) A prosecution for murder may be commenced:

- (1) at any time; and
- (2) regardless of the amount of time that passes between:
 - (A) the date a person allegedly commits the elements of murder; and
 - (B) the date the alleged victim of the murder dies.

(e) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:

- (1) IC 35-42-4-3(a) (Child molesting).
- (2) IC 35-42-4-5 (Vicarious sexual gratification).
- (3) IC 35-42-4-6 (Child solicitation).
- (4) IC 35-42-4-7 (Child seduction).
- (5) IC 35-46-1-3 (Incest).

(f) Notwithstanding subsection (e)(1), a prosecution for child

~~moles~~ting under IC 35-42-4-3(c) or IC 35-42-4-3(d) where a person who is at least sixteen (16) years of age allegedly commits the offense against a child who is not more than two (2) years younger than the older person; is barred unless commenced within five (5) years after the commission of the offense.

~~(g)~~ (f) A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

~~(h)~~ (g) If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.

~~(i)~~ (h) The period within which a prosecution must be commenced does not include any period in which:

- (1) the accused person is not usually and publicly resident in Indiana or so conceals himself that process cannot be served on him;
- (2) the accused person conceals evidence of the offense, and evidence sufficient to charge him with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or
- (3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

~~(j)~~ (i) For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:

- (1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.
- (2) The date of issuance of a valid arrest warrant.
- (3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

~~(k)~~ (j) A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.

SECTION 125. IC 35-47-2.5-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The state police department shall provide its response to a requesting dealer under section 6 of this chapter during the dealer's call, or by return call without delay.

(b) If a criminal history check indicates that a prospective purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity and committed to the custody of the division of mental health, the state police department has until the end of the next business day of the state police department to advise the dealer that the records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law.

(c) If a dealer:

(1) is not advised of a prohibition before the end of the next business day of the state police department; and

(2) has fulfilled the requirements of section 4 of this chapter;

the dealer may immediately complete the sale or transfer and may not be considered in violation of this chapter with respect to the sale or transfer.

(d) In case of electronic failure or other circumstances beyond the control of the state police department, the dealer shall be advised immediately of the reason for the delay and be given an estimate of the length of the delay. However, after a notification under this subsection, the state police department shall inform the requesting dealer whether state police department records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law: ~~not later than:~~

(1) **by** the end of the next business day of the state police department following correction of the problem that caused the delay; or

(2) **within** three (3) business days of the state police department; whichever ~~is~~ **time limit occurs** earlier.

(e) A dealer that fulfills the requirements of section 4 of this chapter and is told by the state police department that a response will not be available under subsection (d) may immediately complete the sale or transfer and may not be considered in violation of this chapter with respect to the sale or transfer.

SECTION 126. IC 36-4-3-13, AS AMENDED BY P.L.173-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

- (1) The requirements of either subsection (b) or (c).
- (2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

- (1) That the territory sought to be annexed is contiguous to the municipality.
- (2) One (1) of the following:
 - (A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.
 - (B) Sixty percent (60%) of the territory is subdivided.
 - (C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

- (1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth ($1/4$), instead of one-eighth ($1/8$), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.
- (2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

- (1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.
- (2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) ~~At~~ At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in

the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

- (1) Consider evidence on the conditions listed in subdivision (2).
- (2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection.
- (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

- (i) A majority of the owners of land in the territory proposed to be annexed.

- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(h) The most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

SECTION 127. IC 36-7-11.5-7, AS ADDED BY P.L.92-2003, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as otherwise specified in this chapter, the commission has all of the powers and responsibilities of a historic preservation commission established under IC 36-7-11.

(b) The commission shall do the following:

- (1) Designate a fiscal agent who must be the fiscal officer of one (1) of the towns to which this chapter applies.
- (2) Employ professional staff ~~to~~ necessary ~~to~~ assist the commission in carrying out its duties.
- (3) Engage consultants, attorneys, accountants, and other professionals necessary to carry out the commission's duties.
- (4) Jointly approve, with the Indiana gaming commission, the location and exterior design of a riverboat to be operated in the historic hotel district.
- (5) Make recommendations to the Indiana gaming commission concerning the selection of an operating agent (as defined in IC 4-33-2-14.5) that the commission believes will:
 - (A) promote the most economic development in the area surrounding the historic hotel district; and
 - (B) best serve the interests of the residents of the county in which the historic hotel district is located and all other citizens of Indiana.

(6) Make recommendations to the Indiana gaming commission concerning the operation and management of the riverboat to be

operated in the county.

(c) This section does not limit the powers of the Indiana gaming commission with respect to the administration and regulation of riverboat gaming under IC 4-33.

SECTION 128. IC 36-7-11.5-11, AS ADDED BY P.L.92-2003, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "fund" refers to the West Baden Springs historic hotel preservation and maintenance fund established by subsection (b).

(b) The West Baden Springs historic hotel preservation and maintenance fund is established. The fund consists of the following:

- (1) Amounts deposited in the fund under IC 4-33-12-6(c) and IC 4-33-13-5(b).
- (2) Grants and gifts that the department of natural resources receives for the fund under terms, obligations, and liabilities that the department considers appropriate.
- (3) The one million dollar (\$1,000,000) initial fee paid to the gaming commission **under** IC 4-33-6.5.

The fund shall be administered by the department of natural resources. The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund that is not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. The treasurer of state shall deposit in the fund the interest that accrues from the investment of the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) No money may be appropriated from the fund except as provided in this subsection. The general assembly may appropriate interest accruing to the fund to the department of natural resources only for the following purposes:

- (1) To maintain the parts of a qualified historic hotel that were restored before July 1, 2003.
- (2) To maintain the grounds surrounding a qualified historic hotel.

No money may be appropriated from the fund for restoration purposes if the restoration is to occur after July 1, 2003.

SECTION 129. IC 36-8-7.5-19 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. All pensions, annuities, and benefits payable out of the 1953 fund are exempt from seizure or levy upon attachment, garnishment, execution, and all other process. Except as provided in section 23 **of this chapter**, pensions, annuities, and benefits are not subject to sale, assignment, or transfer by a beneficiary.

SECTION 130. IC 36-8-10-16.5, AS AMENDED BY P.L.86-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.5. (a) As used in this section, "dies in the line of duty" has the meaning set forth in IC 5-10-10-2.

(b) This section applies to the survivors of an eligible employee who dies in the line of duty.

(c) After December 31, 2003, the department that employed the eligible employee who died in the line of duty shall offer to provide and pay for health insurance coverage for the eligible employee's surviving spouse and for each natural child, stepchild, or adopted child of the eligible employee:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age, if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to an eligible employee, the health insurance provided to a surviving spouse or child under this subsection must be equal in coverage to that offered to an eligible employee. The offer to provide and pay for health insurance ~~cover~~ **coverage** shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the eligible employee is eligible for coverage under subdivision (1), (2), or (3).

SECTION 131. IC 36-8-13-3, AS AMENDED BY P.L.95-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The executive of a township, with the approval of the legislative body, may do the following:

- (1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment

to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide services in that area. Preference in employment under this section shall be given according to the following priority:

(A) A war veteran who has been honorably discharged from the United States armed forces.

(B) A person whose mother or father was a:

- (i) firefighter of a unit;
- (ii) municipal police officer; or
- (iii) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

A person described in this subdivision ~~may~~ **may** not receive a preference for employment unless the person applies for employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have all municipal territory completely within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

- (1) The legislative body of the municipality adopts an ordinance to have the township provide the services without a contract.
- (2) The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of a year.

(c) This subsection applies only to a township that:

- (1) is located in a county containing a consolidated city;
- (2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within the township on January 1, 1996; and
- (3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the included town's municipal territory completely within the township. A township may provide fire protection or emergency services, or both, without contracts inside the corporate boundaries of the municipalities if before August 1 of the year preceding the first calendar year to which this subsection applies the township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality. The resolution must identify the included towns to which the resolution applies. In a township providing services to a municipality under this section, the legislative body of the township may opt out of participation under this subsection by adopting a resolution before July 1 of a year. A copy of a resolution adopted under this subsection shall be submitted to the executive of each included town covered by the resolution, the county auditor, and the department of local government finance.

SECTION 132. IC 36-9-27-26.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.5. (a) A county executive may change a regulated drain that is subject to this chapter into a drain that is subject to the jurisdiction of a drainage maintenance and repair district under IC 14-27-8.

(b) When a drain that is subject to assessments for periodic maintenance and repair under this chapter becomes subject to the jurisdiction of a drainage maintenance and repair district under IC 14-27-8, the county treasurer shall transfer all money in the drain's maintenance fund established under ~~IC 36-9-27-44~~ **section 44 of this chapter** to the drain's drainage maintenance fund established under IC 14-27-8-19.

(c) The county executive shall establish procedures for the transition of a drain from administration under this chapter to administration under IC 14-27-8.

SECTION 133. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 3-11-6.5-0.5; IC 3-11-15-13.5; IC 6-2.5-6-14; IC 12-7-2-143; IC 13-11-2-85.5; IC 13-11-2-117; IC 13-11-2-265.5; IC 27-13-1-3; IC 34-30-2-55; IC 34-30-2-116.8; IC 36-9-37-2.

SECTION 134. [EFFECTIVE UPON PASSAGE] **The amendment of IC 35-41-4-2(f) by this act does not apply to offenses committed under IC 35-42-4-3(c) and IC 35-42-4-3(d) as those provisions existed before the amendment of IC 35-42-4-3 by P.L.79-1994, SECTION 12.**

SECTION 135. P.L.112-2003, SECTION 2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 2. (a) As used in this SECTION, "commission" refers to the fire prevention and building safety commission.

(b) The commission shall consider the following criteria in adopting standards under IC 22-13-4-7, as added by this act:

(1) Standards for an entrance to the dwelling unit that has the following features:

(A) The entrance is designed to:

(i) provide access to; and

(ii) be usable by;

people with physical disabilities.

(B) The entrance is designed:

- (i) without any steps; or
- (ii) with a rise that is not more than one-half (1/2) inch.

(C) The entrance is located on a continuous unobstructed path from the entrance of the building that contains or consists of the dwelling unit to the street. The commission shall consider standards that make the path:

- (i) usable by a person who uses a wheelchair; and
- (ii) safe for and usable by people with other physical disabilities and people without physical disabilities.

The commission's standards may include curb ramps, parking access aisles, walks, ramps, or lifts.

(2) Standards for doors within the dwelling that are designed to allow passage for a person described in subdivision (1)(C)(i) ~~and~~ **or** (1)(C)(ii). The commission shall consider standards that require a door to have an unobstructed opening of at least thirty-six (36) inches.

(3) Standards for the location of environmental controls including the following:

(A) Except as provided in clause (B), environmental controls that are located:

- (i) not higher than forty-eight (48) inches; and
- (ii) not lower than eighteen (18) inches;

on a wall.

(B) If environmental controls are located directly above a counter, ~~a~~ sink, or ~~an~~ appliance, the controls shall be located not higher than three (3) inches above the counter, sink, or appliance.

(4) Standards for indoor rooms that:

- (A) have an area of not less than seventy (70) square feet; and
- (B) contain no side or dimension narrower than seven (7) feet.

(5) Standards for a bathroom located on the first floor of the dwelling that contains at least a toilet, ~~a~~ sink, and walls that may be reinforced later to allow for the installation of grab bars.

(6) Standards for interior hallways that are level and at least thirty-six (36) inches wide.

(c) The commission shall adopt rules under IC 4-22-2 as required under IC 22-13-4-7, as added by this act, not later than January 1, 2005.

(d) This SECTION expires January 1, 2006.

SECTION 136. P.L.192-2002(ss), SECTION 199, AS AMENDED BY P.L.269-2003, SECTION 14, AND AS AMENDED BY P.L.269-2003, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 199. (a) This SECTION applies to a taxpayer that:

- (1) was subject to the gross income tax under IC 6-2.1 before January 1, 2003; ~~and~~
- (2) has a taxable year that begins before January 1, 2003, and ends after December 31, 2002; ~~and~~
- (3) *is not subject to the adjusted gross income tax under IC 6-3 in the taxpayer's taxable year.*

(b) A taxpayer shall file the taxpayer's estimated gross income tax return and pay the taxpayer's estimated gross income tax liability to the department of state revenue as provided in IC 6-2.1-5-1.1 ~~for due dates that occur before January 1, 2003; (before its repeal).~~

(c) ~~Not later than April 15, 2003; a taxpayer shall file a~~ Except as otherwise provided in 45 IAC 1.1-5-3, the final gross income tax return ~~with the department of state revenue of a taxpayer is due on the fifteenth day of the fourth month following the end of the taxpayer's regular taxable year determined as if IC 6-2.1 had not been repealed by P.L.192-2002(ss). The taxpayer shall file the final gross income tax return on a form and in the manner prescribed by the department of state revenue. At the time of filing the final gross income tax return, a taxpayer shall pay to the department of state revenue an amount equal to the remainder of:~~

- (1) the total gross income tax liability incurred by the taxpayer for the part of the taxpayer's taxable year that occurred in calendar year 2002; minus
- (2) the sum of:
 - (A) the total amount of gross income taxes that was previously paid by the taxpayer to the department of state revenue for any quarter of that same part of the taxpayer's taxable year; plus
 - (B) any gross income taxes that were withheld from the taxpayer for that same part of the taxpayer's taxable year under IC 6-2.1-6.

(d) *The department of state revenue may prescribe forms and procedures for reconciling the returns and tax due under P.L.192-2002(ss), SECTION 199 before the enactment of this*

amendment and the returns and tax due under P.L.192-2002(ss), SECTION 199, as amended by this SECTION. The procedures may include procedures for granting an automatic extension for the filing of some or all returns due before April 16, 2003, under P.L.192-2002(ss), SECTION 199 before the enactment of this amendment.

SECTION 137. P.L.224-2003, SECTION 261, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 261. (a) The duties conferred on the department of commerce relating to energy policy are transferred to the office of energy policy on July 1, 2005.

(b) The rules adopted by the department of commerce concerning energy policy before July 1, 2005, are considered, after June 30, 2005, rules of the office of energy policy until the office of energy policy adopts replacement rules.

(c) On July 1, 2005, the office of energy policy becomes the owner of all property relating to energy policy of the department of commerce.

(d) Any appropriations to the department of commerce relating to energy policy and any funds relating to energy policy under the control or supervision of the department of commerce on June 30, 2005, are ~~be~~ transferred to the control or supervision of the office of energy policy on July 1, 2005.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the office of energy policy by this act.

(f) This SECTION expires January 1, 2006.

SECTION 138. P.L.264-2003, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 15. (a) IC 6-1.1-10-16 (subject to SECTION ~~13~~ **14** of this act), IC 6-1.1-10-21, and IC 14-33-7-4, all as amended by this act, apply only to property taxes first due and payable after December 31, 2002.

SECTION 139. P.L.272-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 10. (a) This SECTION applies to certified applications for an enterprise zone inventory credit under IC 6-1.1-20.8 that were filed for property taxes due and payable in 2002.

(b) Notwithstanding any other law, the county auditor may

determine that a person who filed a certified application ~~no~~ **not** later than thirty (30) days after the time established in IC 6-1.1-20.8-2.5 is eligible to receive the credit. In order to approve the application, the county auditor shall make the findings set forth in subsection (d).

(c) To apply for a determination of eligibility under this SECTION, a person must file with the auditor of the county in which the person's facility is located, by ~~no~~ **not** later than July 1, 2003, an application for an enterprise zone inventory credit for its inventory as of March 1, 2001, on a form EZ-1 prescribed by the department of local government finance.

(d) If an application for an enterprise zone inventory credit is filed by a person under subsection (c), the county auditor shall, within thirty (30) days after ~~such the~~ filing, determine whether the application should be approved. The county auditor shall make the following findings:

- (1) The person applied for the credit ~~no~~ **not** later than thirty (30) days after the time established in IC 6-1.1-20.8-2.5 and the application was denied as being not timely filed.
- (2) The application would have been approved if it had been timely filed.
- (3) Local officials support the approval of the application.
- (4) Approval of the application will result in a significant assistance payment to the applicable local zone urban enterprise association.
- (5) The approval of the application will promote economic development activities in the enterprise zone.

(e) If the auditor approves the application, the auditor shall determine the amount of the credit by calculating the person's property tax liability on inventory located within an enterprise zone as of March 1, 2001, payable in 2002.

(f) Without any appropriation being required, the county auditor shall issue warrants payable from the county general fund to a person eligible for credit under subsection (e) in the following amounts and on the following dates:

- (1) On July 15, 2004, for an amount equal to one-half (**1/2**) of the liability calculated under subsection (e)(1).
- (2) On January 15, 2005, for an amount equal to one-half (**1/2**) of the liability calculated under subsection (e)(1).

(g) In addition to issuing a warrant, the county auditor may choose to grant the person a credit against the person's property tax liability payable in 2004 and 2005 for all or a portion of the amount of the credit determined in subsection (e).

(h) Within thirty (30) days after receiving either the credit against property tax liability under subsection (g) or each of the warrants issued under subsection (f), the person shall pay an amount equal to the pro rata amount of any additional registration fee under IC 4-4-6.1-2(a)(4) and the pro rata amount of any assistance payment under IC 4-4-6.1-2(b).

(i) This SECTION expires December 31, 2005.

SECTION 140. P.L.276-2003, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 36. (a) An advance to a charter school from the department of education that is financed by a transfer by the state board of finance from the abandoned property fund established ~~in~~ **by** IC 32-34-1-33 is forgiven.

(b) This SECTION expires June 30, 2005.

SECTION 141. P.L.277-2003, SECTION 16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 16. (a) Except as provided in subsection (b), the administrative ~~fee fees~~ deposited into:

- (1) the county supplemental juvenile probation services fund under IC 31-40-2-1;
- (2) the county supplemental adult probation services fund under IC 35-38-2-1(f); **and**
- (3) the local supplemental adult probation services fund under IC 35-38-2-1(g);

as amended by this act shall be used to pay for salary increases required under the salary schedule adopted under IC 36-2-16.5 and IC 11-13-8 that became effective January 1, 2004.

(b) Administrative fees collected that exceed the amount required to pay for salary increases required under the salary schedule adopted under IC 36-2-16.5 and IC 11-13-1-8 may be used in any manner permitted under IC 31-40-2-2, IC 35-38-2-1(f), or IC 35-38-2-1(i).

SECTION 142. **An emergency is declared for this act.**

P.L.98-2004

[S.263. Approved March 9, 2004.]

AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 33-22 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 22. EFFECT OF RECODIFICATION OF TITLE 33

Chapter 1. Effect of Recodification by the Act of the 2004 Regular Session of the General Assembly

Sec. 1. As used in this chapter, "prior law" refers to the statutes concerning courts and court officers that are repealed or amended in the recodification act of the 2004 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 2004 regular session of the general assembly.

Sec. 2. The purpose of the recodification act of the 2004 regular session of the general assembly is to recodify prior law in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 2004 regular session of the general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 2004 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 2003 expressly indicate a different purpose;

the substantive operation and effect of the prior law continue uninterrupted as if the recodification act of the 2004 regular session of the general assembly had not been enacted.

Sec. 3. Subject to section 2 of this chapter, sections 4 through 9 of this chapter shall be applied to the statutory construction of the

recodification act of the 2004 regular session of the general assembly.

Sec. 4. (a) The recodification act of the 2004 regular session of the general assembly does not affect:

- (1) any rights or liabilities accrued;**
- (2) any penalties incurred;**
- (3) any violations committed;**
- (4) any proceedings begun;**
- (5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;**
- (6) any tax levies made or authorized;**
- (7) any funds established;**
- (8) any patents issued;**
- (9) the validity, continuation, or termination of any contracts, easements, or leases executed;**
- (10) the validity, continuation, scope, termination, suspension, or revocation of:**
 - (A) permits;**
 - (B) licenses;**
 - (C) certificates of registration;**
 - (D) grants of authority; or**
 - (E) limitations of authority; or**
- (11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law;**

before the effective date of the recodification act of the 2004 regular session of the general assembly (July 1, 2004). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2004 regular session of the general assembly had not been enacted.

(b) The recodification act of the 2004 regular session of the general assembly does not:

- (1) extend or cause to expire a permit, license, certificate of registration, or other grant or limitation of authority; or**
- (2) in any way affect the validity, scope, or status of a license, permit, certificate of registration, or other grant or limitation**

of authority;
issued under the prior law.

(c) The recodification act of the 2004 regular session of the general assembly does not affect the revocation, limitation, or suspension of a permit, license, certificate of registration, or other grant or limitation of authority based in whole or in part on violations of the prior law or the rules adopted under the prior law.

Sec. 5. The recodification act of the 2004 regular session of the general assembly shall be construed as a recodification of prior law. Except as provided in section 2(1) and 2(2) of this chapter, if the literal meaning of the recodification act of the 2004 regular session of the general assembly (including a literal application of an erroneous change to an internal reference) would result in a substantive change in the prior law, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:

(1) inserting, deleting, or substituting words, punctuation, or other matters of style in the recodification act of the 2004 regular session of the general assembly; or

(2) using any other rule of statutory construction;

as necessary or appropriate to apply the recodification act of the 2004 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning of an act if the literal meaning of the act is unambiguous does not apply to the recodification act of the 2004 regular session of the general assembly to the extent that the recodification act of the 2004 regular session of the general assembly is not substantively identical to the prior law.

Sec. 6. Subject to section 9 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in the recodification act of the 2004 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.

Sec. 7. A citation reference in the recodification act of the 2004 regular session of the general assembly to another provision of the recodification act of the 2004 regular session of the general assembly shall be treated as including a reference to the provision of prior law that is substantively equivalent to the provision of the

recodification act of the 2004 regular session of the general assembly that is referred to by the citation reference.

Sec. 8. (a) As used in the recodification act of the 2004 regular session of the general assembly, a reference to rules adopted under any provision of this title or under any other provision of the recodification act of the 2004 regular session of the general assembly refers to either:

- (1) rules adopted under the recodification act of the 2004 regular session of the general assembly; or
- (2) rules adopted under the prior law until those rules have been amended, repealed, or superseded.

(b) Rules adopted under the prior law continue in effect after June 30, 2004, until the rules are amended, repealed, or suspended.

Sec. 9. (a) A reference in the recodification act of the 2004 regular session of the general assembly to a citation in the prior law before its repeal is added in certain sections of the recodification act of the 2004 regular session of the general assembly only as an aid to the reader.

(b) The inclusion or omission in the recodification act of the 2004 regular session of the general assembly of a reference to a citation in the prior law before its repeal does not affect:

- (1) any rights or liabilities accrued;
- (2) any penalties incurred;
- (3) any violations committed;
- (4) any proceedings begun;
- (5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;
- (6) any tax levies made;
- (7) any funds established;
- (8) any patents issued;
- (9) the validity, continuation, or termination of contracts, easements, or leases executed;
- (10) the validity, continuation, scope, termination, suspension, or revocation of:
 - (A) permits;
 - (B) licenses;
 - (C) certificates of registration;
 - (D) grants of authority; or
 - (E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law; before the effective date of the recodification act of the 2004 regular session of the general assembly (July 1, 2004). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2004 regular session of the general assembly had not been enacted.

(c) The inclusion or omission in the recodification act of the 2004 regular session of the general assembly of a citation to a provision in the prior law does not affect the use of a prior conviction, violation, or noncompliance under the prior law as the basis for revocation of a license, permit, certificate of registration, or other grant of authority under the recodification act of the 2004 regular session of the general assembly, as necessary or appropriate to apply the recodification act of the 2004 regular session of the general assembly in a manner that does not result in a substantive change in the law.

SECTION 2. IC 33-23 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 23. GENERAL PROVISIONS

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this title.

Sec. 2. "Chairperson" includes an acting chairperson.

Sec. 3. "Commission on judicial qualifications", except as used in IC 33-33-71, means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

Sec. 4. "Crime" means a felony or a misdemeanor.

Sec. 5. "Felony" means a violation of a statute for which a person may be imprisoned for more than one (1) year.

Sec. 6. "Infraction" means a violation of a statute for which a person may be fined but not imprisoned.

Sec. 7. "Judicial nominating commission", except as used in IC 33-33-2, IC 33-33-45, and IC 33-33-71, means the commission described in Article 7, Section 9 of the Constitution of the State of

Indiana.

Sec. 8. "Judicial office" means the office held by a judge or justice.

Sec. 9. "Misdemeanor" means a violation of a statute for which a person may be imprisoned for not more than one (1) year.

Sec. 10. "Offense" means a felony, a misdemeanor, an infraction, or a violation of a penal ordinance.

Sec. 11. "Vacancy" means an opening in a judicial office or an opening on the judicial nominating commission that occurs by reason of death, retirement, resignation, or removal.

Chapter 2. Court Terms and Schedules

Sec. 1. The term of court for all courts is the calendar year and the judges of a court may act in all matters and proceedings through the entire calendar year.

Sec. 2. If, at the expiration of the time fixed by law for the continuance of the term of a court, the trial of a case is progressing, the court may:

- (1) continue sitting beyond the time;
- (2) require the attendance of the jury and witnesses; and
- (3) do, transact, and enforce all other matters necessary for the determination of the case.

The term of the court may not be considered to be ended until the case has been fully disposed of by the court.

Sec. 3. If a judicial circuit consists of two (2) or more courts, the judge of the circuit shall divide the judge's time and the attendance in each court as the business of the courts requires.

Sec. 4. All courts retain power and control over their judgments for ninety (90) days after rendering the judgments in the same manner and under the same conditions as they retained power and control during the term of court in which the judgments were rendered.

Sec. 5. If in any statute, rule, or order, a period is described or fixed by a term of court, a period of sixty (60) days for the purposes of time limitation only shall be substituted for the term of court.

Sec. 6. In setting for trial a case at issue and in discharging rules upon which time has run, a judge shall:

- (1) fix regular periods for setting cases not exceeding one hundred twenty (120) days between the periods; or
- (2) set each case by a docket sheet entry, on a day certain,

with notice, either in person or by mail, of the date set to attorneys of record.

Chapter 3. Senior Judges

Sec. 1. (a) A circuit court, a superior court, a county court, a probate court, or the court of appeals may apply to the supreme court for the appointment of a senior judge to serve the court.

(b) The application submitted under this section must include the following:

- (1)** Reasons for the request.
- (2)** Estimated duration of the need for a senior judge.

Sec. 2. Upon approving the request by a circuit court, a superior court, a county court, a probate court, or the court of appeals for a senior judge, the supreme court may appoint a senior judge to serve that court for the duration specified in the application submitted under section 1 of this chapter.

Sec. 3. A senior judge:

- (1)** exercises the jurisdiction granted to the court served by the senior judge;
- (2)** may serve as a domestic relations mediator, subject to the code of judicial conduct;
- (3)** serves at the pleasure of the supreme court; and
- (4)** serves in accordance with rules adopted by the supreme court under IC 33-24-3-7.

A senior judge serving as a domestic relations mediator is not entitled to reimbursement or a per diem under section 5 of this chapter. A senior judge serving as a domestic relations mediator may receive compensation from the alternative dispute resolution fund under IC 33-23-6 in accordance with the county domestic relations alternative dispute resolution plan.

Sec. 4. The supreme court may not require a senior judge to accept an assignment to serve a circuit court, a superior court, a county court, a probate court, or the court of appeals. If a senior judge declines an assignment to serve, the supreme court may offer the senior judge subsequent assignments to serve a circuit court, a superior court, a county court, a probate court, or the court of appeals.

Sec. 5. (a) A senior judge is entitled to the following compensation:

- (1)** For each of the first thirty (30) days of service in a

calendar year, a per diem of fifty dollars (\$50).

(2) Except as provided in subsection (c), for each day the senior judge serves after serving the first thirty (30) days of service in a calendar year, a per diem of one hundred dollars (\$100).

(3) Reimbursement for:

(A) mileage; and

(B) reasonable expenses, including but not limited to meals and lodging, incurred in performing service as a senior judge;

for each day served as a senior judge.

(b) Subject to subsection (c), the per diem and reimbursement for mileage and reasonable expenses under subsection (a) shall be paid by the state.

(c) The compensation under subsection (a)(2) must be paid by the state from funds appropriated to the supreme court for judicial payroll. If the payroll fund is insufficient to pay the compensation under subsection (a)(2), the supreme court may issue an order adjusting the compensation rate.

(d) A senior judge appointed under this chapter may not be compensated as a senior judge for more than one hundred (100) total calendar days during a calendar year.

Chapter 4. Court Administrators

Sec. 1. This chapter does not apply to a county having a court administrator under Indiana law before July 29, 1975.

Sec. 2. The position of court administrator may be created by a majority vote of the judges in section 3 of this chapter in every county having a population according to the last United States decennial census of more than one hundred thousand (100,000) persons.

Sec. 3. The court administrator shall be appointed by and serve at the pleasure of the majority of the judges of the following courts of the county sitting in committee:

(1) Circuit court.

(2) Superior court.

(3) Juvenile court.

(4) Probate court.

(5) Criminal court.

Sec. 4. The court administrator:

(1) shall devote full time to the court administrator's official duties; and

(2) may not engage in any other profession for profit.

Sec. 5. (a) Sitting in committee, the judges of the courts listed in section 3 of this chapter in each county shall determine the duties of the court administrator; and the court administrator shall perform the administrative duties the judges determine.

(b) The salary of the court administrator shall be determined by a majority of the judges listed in section 3 of this chapter in each county, sitting in committee. The court administrator's salary shall be paid by the county upon the order of the majority of the committee of judges.

Sec. 6. (a) To implement this chapter, the judges of the courts, sitting in committee, may appoint additional personnel in sufficient number so that the courts are adequately served by the court administrator.

(b) The salaries of the additional personnel shall be paid by the county upon the order of the committee of judges.

Chapter 5. Magistrates

Sec. 1. This chapter applies to a court expressly authorized by statute to appoint a full-time magistrate.

Sec. 2. A magistrate must be admitted to the practice of law in Indiana.

Sec. 3. A magistrate may not engage in the practice of law while holding the office of magistrate.

Sec. 4. The files of applicants for appointment as a magistrate, including the names of applicants, are confidential as provided in IC 5-14-3-4(b)(8).

Sec. 5. A magistrate may do any of the following:

- (1) Administer an oath or affirmation required by law.
- (2) Solemnize a marriage.
- (3) Take and certify an affidavit or deposition.
- (4) Order that a subpoena be issued in a matter pending before the court.
- (5) Compel the attendance of a witness.
- (6) Punish contempt.
- (7) Issue a warrant.
- (8) Set bail.
- (9) Enforce court rules.

(10) Conduct a preliminary, an initial, an omnibus, or other pretrial hearing.

(11) Conduct an evidentiary hearing or trial.

(12) Receive a jury's verdict.

(13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.

(14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as described in section 9 of this chapter.

Sec. 6. A magistrate may serve as a judge pro tempore or as a special judge of the court. A magistrate is not entitled to additional compensation for service under this section.

Sec. 7. The court may assign a magistrate administrative duties that are consistent with this chapter.

Sec. 8. Except as provided under section 9(b) of this chapter, a magistrate:

(1) does not have the power of judicial mandate; and

(2) may not enter a final appealable order unless sitting as a judge pro tempore or a special judge.

Sec. 9. (a) Except as provided under subsection (b), a magistrate shall report findings in an evidentiary hearing, a trial, or a jury's verdict to the court. The court shall enter the final order.

(b) If a magistrate presides at a criminal trial, the magistrate may do the following:

(1) Enter a final order.

(2) Conduct a sentencing hearing.

(3) Impose a sentence on a person convicted of a criminal offense.

Sec. 10. A magistrate is entitled to an annual salary equal to eighty percent (80%) of the salary of a judge under IC 33-38-5-6.

Sec. 11. Except as provided in section 12 of this chapter, the state shall pay the salary of a magistrate. A county located in the circuit that the magistrate serves may supplement the magistrate's salary.

Sec. 12. The salary of a magistrate appointed under IC 31-31-3-2 shall be paid in accordance with IC 33-38-5-7.

Sec. 13. A magistrate may:

(1) participate in the public employees' retirement fund as provided in IC 5-10.3; or

(2) elect to remain in the judges' retirement system under IC 33-38 if the magistrate had previously participated in the system.

Chapter 6. Circuit Court and Superior Court Domestic Relations Alternative Dispute Resolution

Sec. 1. (a) In addition to the fees required under IC 33-37-4-4, if a county meets the requirements of this chapter, the clerk of the court shall collect from the party filing a petition for legal separation, paternity, or dissolution of marriage under IC 31 an alternative dispute resolution fee of twenty dollars (\$20).

(b) Not later than thirty (30) days after the clerk collects a fee under subsection (a), the clerk shall forward to the county auditor the alternative dispute resolution fee. The county auditor shall deposit the fee forwarded by the clerk under this section into the alternative dispute resolution fund.

Sec. 2. (a) There is established an alternative dispute resolution fund for the circuit court and an alternative dispute resolution fund for the superior court. The exclusive source of money for each fund is the alternative dispute resolution fee collected under section 1 of this chapter for the circuit or superior court, respectively.

(b) The funds shall be used to foster domestic relations alternative dispute resolution, including:

- (1) mediation;
- (2) reconciliation;
- (3) nonbinding arbitration; and
- (4) parental counseling.

Litigants referred by the court to services covered by the fund shall make a copayment for the services in an amount determined by the court based on the litigants' ability to pay. The fund shall be administered by the circuit or superior court that exercises jurisdiction over domestic relations and paternity cases in the county. Money in each fund at the end of a fiscal year does not revert to the county general fund but remains in the fund for the uses specified in this section.

(c) The circuit or superior court that administers the alternative dispute resolution fund shall ensure that money in the fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay, in accordance with the plan adopted by the county under section 3 of this chapter.

(d) A court may not order parties into mediation or refer parties to mediation if a party is currently charged with or has been convicted of a crime:

(1) under IC 35-42; or

(2) in another jurisdiction that is substantially similar to the elements of a crime described in IC 35-42.

Sec. 3. (a) A county desiring to participate in the program under this chapter must:

(1) develop a plan to carry out the purposes of section 2 of this chapter that is approved by a majority of the judges in the county exercising jurisdiction over domestic relations and paternity cases; and

(2) submit the plan to the judicial conference of Indiana.

(b) The plan under subsection (a) must include:

(1) information concerning how the county proposes to carry out the purposes of the domestic relations alternative dispute resolution fund as set out in section 2 of this chapter; and

(2) a method of ensuring that the money in the alternative dispute resolution fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay.

The plan may include the use of senior judges as mediators in domestic relations cases as assigned by the supreme court. The judicial conference of Indiana may request additional information from the county as necessary.

Sec. 4. A county that participates in the program under this chapter shall submit a report to the judicial conference of Indiana not later than December 31 of each year summarizing the results of the program.

Chapter 7. Juvenile Court Jurisdiction

Sec. 1. A circuit court has juvenile jurisdiction unless this title provides that another court in the same county has exclusive juvenile jurisdiction.

Sec. 2. A court other than a circuit court has juvenile jurisdiction only if:

(1) this title specifically provides that the court has juvenile jurisdiction; or

(2) this title provides that the court has the same jurisdiction as a circuit court having juvenile jurisdiction.

Sec. 3. (a) When in session under this chapter, a court shall be known as the juvenile court.

(b) A juvenile court shall maintain its own docket, order book, and records.

Sec. 4. A juvenile court may adopt rules to:

- (1)** simplify; and
- (2)** expedite;

its own proceedings and decisions.

Chapter 8. Notice to Licensing Body of Insurance Fraud Conviction

Sec. 1. As used in this chapter, "governmental body" means an agency, a board, or a commission of the legislative, executive, or judicial branch of state government.

Sec. 2. As used in this chapter, "license" means an occupational or a professional license, registration, permit, or certificate issued by a governmental body.

Sec. 3. As used in this section, "practitioner" means a person who holds a license. The term includes the following:

- (1)** An attorney.
- (2)** A person practicing an occupation or a profession that is licensed under IC 27 or by a board referred to in IC 25-1-2-6(b).

Sec. 4. If a practitioner is convicted under IC 35-43-5-4(10) of:

- (1)** insurance fraud;
- (2)** an attempt to commit insurance fraud; or
- (3)** conspiracy to commit insurance fraud;

the sentencing court shall provide notice of the conviction to each governmental body that has issued a license to the practitioner.

Chapter 9. Protection of Indiana National Guard Members on Active Duty

Sec. 1. (a) An Indiana state court may grant the rights, benefits, and protections described in Section 513 of the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 513, as amended and in effect on January 1, 2003, to a person primarily or secondarily liable on an obligation or a liability of an Indiana national guard member to whom IC 10-16-7-23 applies.

(b) All rights, benefits, and protections granted to a person under subsection (a) are in addition to the rights, benefits, and protections granted the person under the federal Soldiers' and

Sailors' Civil Relief Act, 50 U.S.C. App. 501 et seq., as amended and in effect on January 1, 2003.

Chapter 10. Commission on Courts

Sec. 1. The commission on courts is established.

Sec. 2. The commission on courts is composed of the following thirteen (13) members:

(1) The chief justice of the supreme court or a representative designated by the chief justice.

(2) Four (4) members from the house of representatives, appointed by the speaker of the house of representatives, not more than two (2) of whom are from the same political party.

(3) Four (4) members from the senate, appointed by the president pro tempore of the senate, not more than two (2) of whom are from the same political party.

(4) Two (2) members, not more than one (1) of whom is from the same political party, appointed by the president pro tempore of the senate as follows:

(A) One (1) member must be a sitting judge.

(B) One (1) member must be a county commissioner.

(5) Two (2) members, not more than one (1) of whom is from the same political party, appointed by the speaker of the house of representatives as follows:

(A) One (1) member must be a member of a county council.

(B) One (1) member must be a circuit court clerk.

Sec. 3. Each appointed member of the commission on courts serves for a term of four (4) years.

Sec. 4. The chairman of the legislative council shall appoint the chairperson and vice chairperson of the commission on courts from among the legislative members of the commission. The chairperson and vice chairperson:

(1) may not be members of the same political party;

**(2) may not be from the same house of the general assembly;
and**

(3) must be appointed from a different house of the general assembly each year.

Sec. 5. (a) Each member of the commission on courts who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses and other expenses actually

incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

Sec. 6. (a) The legislative services agency shall employ necessary staff to carry out the administrative duties and functions of the commission on courts, including the following:

- (1) Giving notices of commission meetings and other communication services.
- (2) Keeping records related to commission meetings, proceedings, and actions.
- (3) Preparing the report required under section 7 of this chapter.
- (4) Providing the detailed investigation necessary for the commission to fulfill the duties imposed under section 7 of this chapter.
- (5) Preparing draft proposals required under section 7 of this chapter.

(b) The legislative services agency shall not expend more than forty-eight thousand dollars (\$48,000) per year to employ the staff required under subsection (a).

Sec. 7. The commission on courts shall do the following:

- (1) Review and report on all requests for new courts or changes in jurisdiction of existing courts. A request for review under this subdivision must be received by the commission not later than July 1 of each year. A request received after July 1 may not be considered unless a majority of the commission members agrees to consider the request.
- (2) Conduct research concerning requests for new courts or

changes in jurisdiction of existing courts. The research may include conducting surveys sampling members of the bar, members of the judiciary, and local officials to determine needs and problems.

(3) Conduct public hearings throughout Indiana concerning requests for new courts or changes in jurisdiction of existing courts. The commission shall hold at least one (1) public hearing on each request presented to the commission.

(4) Review and report on any other matters relating to court administration that the commission determines appropriate, including the following:

(A) Court fees.

(B) Court personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(C) Salaries of court officers and personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(D) Jury selection.

(E) Any other issues relating to the operation of the courts.

(5) Submit a report in an electronic format under IC 5-14-6 before November 1 of each year to the general assembly. The report must include the following:

(A) A recommendation on all requests considered by the commission during the preceding year for the creation of new courts or changes in the jurisdiction of existing courts.

(B) If the commission recommends the creation of new courts or changes in jurisdiction of existing courts, the following:

(i) A draft of legislation implementing the changes.

(ii) A fiscal analysis of the cost to the state and local governments of implementing recommended changes.

(iii) Summaries of any research supporting the recommended changes.

(iv) Summaries of public hearings held concerning the recommended changes.

(C) A recommendation on any issues considered by the commission under subdivision (4).

Sec. 8. This chapter expires June 30, 2007.

Chapter 11. Ethics

Sec. 1. As used in this chapter, "cause" means a trial, a hearing, an arraignment, a controversy, an appeal, a case, or any business performed within the official duty of a justice, judge, or prosecuting attorney.

Sec. 2. As used in this chapter, "close relative" means a person related to:

- (1) another person filing a statement of economic interest; or
- (2) the other person's spouse as a son, a daughter, a grandson, a granddaughter, a great-grandson, a great-granddaughter, a father, a mother, a grandfather, a grandmother, a great-grandfather, a great-grandmother, a brother, a sister, a nephew, a niece, an uncle, or an aunt.

For purposes of this section, relatives by adoption, half-blood, marriage, or remarriage are treated as relatives of whole kinship.

Sec. 3. As used in this chapter, "compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or for services to be rendered, whether by that person or another.

Sec. 4. As used in this chapter, "economic interest" means substantial financial interest in investments, employment, awarding of contracts, purchases, leases, sales, or similar matters.

Sec. 5. As used in this chapter, "employer" means any person from whom the judge, justice, or prosecuting attorney or the spouse of the judge, justice, or prosecuting attorney receives any nonstate income.

Sec. 6. As used in this chapter, "information of a confidential nature" means information that:

- (1) is obtained by reason of the position or office held; and
- (2) has not been or will not be communicated to the general public.

Sec. 7. (a) As used in this chapter, "judge" means a judge of the court of appeals, the tax court, or a circuit, superior, county, small claims, or probate court.

(b) The term includes a judge pro tempore, commissioner, or hearing officer if the judge pro tempore, commissioner, or hearing officer sits more than twenty (20) days other than Saturdays, Sundays, or holidays in one (1) calendar year as a judge, commissioner, or hearing officer in any court.

Sec. 8. As used in this chapter, "person" means any individual,

proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

Sec. 9. A justice, judge, or prosecuting attorney may not participate in a cause that involves a matter in which the justice, judge, or prosecuting attorney or a member of the family of the justice, judge, or prosecuting attorney has an economic interest.

Sec. 10. The actions of a justice, judge, or prosecuting attorney in a cause that involves a legislator or a member of a legislator's family may not be influenced by any matters previously considered or to be considered by the legislator in the general assembly.

Sec. 11. A justice, judge, or prosecuting attorney shall promptly and fully disclose any economic interest or other personal stake the justice, judge, or prosecuting attorney or a member of the family of the justice, judge, or prosecuting attorney may have in a cause in which the justice, judge, or prosecuting attorney is a participant.

Sec. 12. A justice, judge, or prosecuting attorney may not accept any compensation from any employment, transaction, or investment that was entered into or made as a result of material information of a confidential nature.

Sec. 13. A justice, judge, or prosecuting attorney may not accept compensation for the sale or lease of any property or service that exceeds the amount that the justice, judge, or prosecuting attorney would charge in the ordinary course of business from any person or entity whom the justice, judge, or prosecuting attorney knows, or has reason to know, has an economic interest in the outcome of a current or future cause in which the justice, judge, or prosecuting attorney is or may be a participant.

Sec. 14. (a) The following shall file with the commission on judicial qualifications an annual statement of economic interests:

(1) Justices, judges, prosecuting attorneys, and the clerk of the supreme court.

(2) Except as provided in subsection (c), any candidate for one (1) of the offices listed in subdivision (1) who is not the holder of that office.

(b) Justices and judges who are candidates for retention in office are subject to IC 3-9.

(c) This section does not apply to a candidate for an

appointment pro tempore to fill a vacancy in an office under IC 3-13.

Sec. 15. (a) The statement of economic interests must be filed with the commission on judicial qualifications:

- (1) not later than February 1 if the individual is required to file the statement as an officeholder; or**
- (2) if a candidate for office, before the individual (or a political party officer acting on behalf of the individual) files:**
 - (A) a declaration of candidacy, if required under IC 3-8-2 or IC 3-8-4-11;**
 - (B) a certified petition of nomination with the Indiana election division under IC 3-8-6;**
 - (C) a certificate of nomination under IC 3-8-7-8;**
 - (D) a certificate of candidate selection under IC 3-13-1 or IC 3-13-2; or**
 - (E) a declaration of intent to be a write-in candidate, if required under IC 3-8-2.**

(b) In a county where judges are selected by a county commission on judicial qualifications, a candidate must file a statement with the county commission on judicial qualifications and with the commission on judicial qualifications.

Sec. 16. The statement of economic interests must set forth the following information for the preceding calendar year:

- (1) The name and address of any person other than a spouse or close relative from whom the justice, judge, prosecuting attorney, or clerk of the supreme court received a gift or gifts having a total fair market value of more than one hundred dollars (\$100).**
- (2) The name of the employer of the justice, judge, prosecuting attorney, or clerk of the supreme court and the employer of the spouse of the justice, judge, prosecuting attorney, or clerk of the supreme court.**
- (3) The nature of the employer's business.**
- (4) The name of any sole proprietorship owned or professional practice operated by the justice, judge, prosecuting attorney, clerk of the supreme court, or the spouse of the justice, judge, prosecuting attorney, or clerk of the supreme court, and the nature of the business.**
- (5) The name of any partnership of which the justice, judge,**

prosecuting attorney, clerk of the supreme court, or the spouse of the justice, judge, prosecuting attorney, or clerk of the supreme court is a member and the nature of the partnership's business.

(6) The name of any corporation (except a church) of which the justice, judge, prosecuting attorney, clerk of the supreme court, or the spouse of the justice, judge, prosecuting attorney, or clerk of the supreme court is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the justice, judge, prosecuting attorney, clerk of the supreme court, or the spouse or unemancipated children less than eighteen (18) years of age of the justice, judge, prosecuting attorney, or clerk of the supreme court own stock or stock options having a fair market value of more than ten thousand dollars (\$10,000).

Sec. 17. A justice of the supreme court or judge of the court of appeals may not:

- (1) engage in the practice of law;
- (2) run for elected office other than a judicial office;
- (3) directly or indirectly make any contribution to, or hold any office in, a political party or organization; or
- (4) take part in any political campaign;

as provided in Article 7, Section 11 of the Constitution of the State of Indiana.

Chapter 12. Political Activity of Court Employees

Sec. 1. The general assembly finds that:

- (1) the right of every citizen to freely participate in political activity is inherent in the guarantee of free speech contained in Article 1, Section 9 of the Constitution of the State of Indiana and in Amendment I to the Constitution of the United States;
- (2) the right to freely participate in political activity is guaranteed to state employees under IC 4-15-10-2;
- (3) the judiciary is not less subject to constitutional strictures against governmental interference with the free exercise of speech than are the executive and legislative branches of government; and
- (4) employees in the judicial branch of state government have

the same rights guaranteed to all Indiana citizens.

Sec. 2. (a) As used in this chapter, "court employee" means a person employed by any of the following:

- (1) The supreme court.**
- (2) The court of appeals.**
- (3) The tax court.**
- (4) A circuit court.**
- (5) A superior court.**
- (6) A juvenile court.**
- (7) A probate court.**
- (8) A county court.**
- (9) A municipal court.**
- (10) A city or town court.**
- (11) A small claims court.**

(b) The term does not include a judge of any of the courts listed in subsection (a)(1) through (a)(11).

Sec. 3. Except when on duty or acting in an official capacity and except where otherwise provided by state or federal law, a court employee may not be:

- (1) discouraged from engaging in political activity; or**
- (2) denied the right to choose to refrain from engaging in political activity.**

Chapter 13. Defense of Judges and Prosecutors

Sec. 1. As used in this chapter, "judge" has the meaning set forth in IC 33-38-12-3.

Sec. 2. As used in this chapter, "prosecuting attorney" includes a senior prosecuting attorney appointed under IC 33-39-1.

Sec. 3. If a judge or prosecuting attorney is sued for civil damages or equitable relief and the suit would be construed, under notice pleading, as arising out of an act performed within the scope of the duties of the judge or prosecuting attorney, the attorney general shall:

- (1) defend the judge or prosecuting attorney in the suit; or**
- (2) authorize the executive director of the division of state court administration to hire private counsel to provide the defense.**

Sec. 4. This chapter does not permit the appointment of counsel for the defense of a judge or prosecuting attorney in criminal or disciplinary proceedings.

Sec. 5. This chapter does not:

- (1) deprive a judge or prosecuting attorney of the judge's or prosecuting attorney's right to select defense counsel of the judge's or prosecuting attorney's own choice at the judge's or prosecuting attorney's own expense; or**
- (2) relieve a prosecuting attorney from responsibility for civil damages.**

Sec. 6. The attorney general may employ legal and other professional services necessary to adequately and fully perform the duties required by this chapter.

SECTION 3. IC 33-24 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 24. SUPREME COURT

Chapter 1. Justices and Jurisdiction

Sec. 1. (a) The supreme court consists of five (5) justices.

(b) Three (3) members of the supreme court constitute a quorum.

Sec. 2. (a) The supreme court has jurisdiction in appeals coextensive with the state and has jurisdiction as provided by the Constitution of the State of Indiana.

(b) The supreme court has exclusive jurisdiction to:

- (1) admit attorneys to practice law in all courts of the state; and**
- (2) issue restraining orders and injunctions in all cases involving the unauthorized practice of the law;**

under rules and regulations as the supreme court may prescribe.

Sec. 3. Except as provided in IC 34-56-1, an appeal may not be taken to the supreme court in any civil case where the amount in controversy, exclusive of interest and costs, does not exceed fifty dollars (\$50).

Sec. 4. The justices of the supreme court, in their respective districts, may preside at the trial of any case pending in any county in a district in which the circuit judge is incompetent to preside.

Chapter 2. Retention of Justices

Sec. 1. Justices of the supreme court shall be approved or rejected by the electorate of the state under Article 7, Section 11 of the Constitution of the State of Indiana.

Sec. 2. A justice who wishes to be retained in office shall file a

statement with the secretary of state, not later than noon July 15 of the year in which the question of retention of the justice is to be placed on the general election ballot, indicating that the justice wishes to have the question of the justice's retention placed on the ballot. The justice's statement must include a statement of the justice's name as:

- (1) the justice wants the justice's name to appear on the ballot; and
- (2) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

Sec. 3. This section applies to a justice:

- (1) who does not file a statement under section 2 of this chapter; and
- (2) whose term expires under Article 7, Section 11 of the Constitution of the State of Indiana during the year in which the question of the retention of the justice would have been placed on the general election ballot.

The term of a justice expires December 31 of the year in which the question of the justice's retention would have been placed on the ballot.

Sec. 4. This section applies to a justice:

- (1) who files a statement under section 2 of this chapter; and
- (2) whose retention is rejected by the electorate.

The term of a justice ends when the secretary of state issues a certificate under IC 3-12-5-1 stating that the justice has been removed. However, if the justice has filed a petition for a recount under IC 3-12-11, the term of the justice does not end until the state recount commission has issued a certificate under IC 3-12-11-18 stating that the electorate has rejected the retention of the justice.

Sec. 5. The question of approval or rejection of a justice shall be placed on the general election ballot in the form prescribed by IC 3-11-2 and must state "Shall Justice (insert name (as permitted under IC 3-5-7) here) be retained in office?".

Sec. 6. The statement filed under section 2 of this chapter must include a statement that the justice requests the name on the justice's voter registration record be the same as the name the justice uses on the statement. If there is a difference between the name on the justice's statement and the name on the justice's voter

registration record, the officer with whom the statement is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the justice's voter registration record to be the same as the name on the justice's statement.

Chapter 3. Duties and Powers

Sec. 1. The supreme court shall adopt and publish rules in conformity with IC 33-24-1-2(b) specifying the terms and conditions under which the supreme court and the court of appeals exercise jurisdiction.

Sec. 2. The judicial opinion or decision in each case determined by the supreme court shall be reduced to writing. Reports of these opinions and decisions may be published and distributed in the manner prescribed by the supreme court.

Sec. 3. (a) The supreme court shall have a seal that is devised by the justices of the supreme court.

(b) A description of the seal shall be recorded in the office of the secretary of state.

Sec. 4. The supreme court may do the following:

(1) Frame, direct, and cause to be used all process, establish modes of practice that may be necessary in the exercise of the supreme court's authority, and make and publish regulations concerning all process and modes of practice.

(2) Establish regulations concerning bonds required in appeals to the supreme court, the amount of the penalties related to the bonds, and for approving sureties executing bonds.

(3) Establish regulations concerning giving notice to officers of inferior courts of the granting of stay of execution, or of supersedeas.

(4) Establish regulations concerning proceedings that are requisite in the supreme court in the exercise of the supreme court's authority that are not specially provided for by law.

Sec. 5. The supreme court may:

(1) impose and administer all necessary oaths;

(2) punish by fine and imprisonment for contempt of the supreme court's authority; and

(3) process and compel the attendance of witnesses by

attachment and fine.

Sec. 6. The supreme court may, by rule of court, provide that if:

(1) the Supreme Court of the United States, a circuit court of appeals of the United States, or the court of appeals of the District of Columbia determines that there are involved in any proceeding before the federal appellate court questions or propositions of the laws of Indiana that are determinative of the proceeding; and

(2) there are no clear controlling precedents in the decisions of the supreme court;

the federal appellate court may certify the questions or propositions of the laws of Indiana to the supreme court for instructions concerning the questions or propositions of state law, and the supreme court, by written opinion, may answer.

Sec. 7. (a) The supreme court may appoint a judge who is certified as a senior judge by the judicial nominating commission to serve a circuit court or a superior court if the court requests the services of a senior judge.

(b) The supreme court may adopt rules concerning:

(1) certification by the judicial nominating commission; and

(2) appointment by the supreme court;

of senior judges.

Chapter 4. Supreme Court Clerk

Sec. 1. (a) A clerk of the supreme court shall be elected under IC 3-10-2-7 by the voters of the state. The term of office of the clerk is four (4) years, beginning January 1 following the individual's election.

(b) The clerk shall execute a bond in the sum of two thousand dollars (\$2,000).

Sec. 2. The clerk of the supreme court shall do the following:

(1) Reside, and keep the clerk's office open, in a building provided for that purpose by the state, at the seat of government, from 9 a.m. until 4 p.m. of every day in the year except Sundays and Independence Day.

(2) Procure and preserve in the office all records and other books and stationery required by the court.

(3) Attend, in person or by deputy, the terms of the court.

(4) Administer all oaths authorized by law.

(5) Sign and seal, with the seal, and issue all process required

to be issued from the court, under the clerk's hand.

(6) Endorse the time of filing books, records, or writings required to be filed or deposited in the clerk's office.

(7) Make a complete record of all causes finally determined in the court, except the transcript of the court below.

Sec. 3. The supreme court shall allow the clerk of the supreme court a reasonable compensation for the record books and stationery furnished by the clerk for the use of the court if the clerk presents to the court an account specifying each item to be furnished to the court. The account presented by the clerk must be verified by an oath taken and subscribed by the clerk, to be administered by a justice of the court.

Sec. 4. An allowance made under section 3 of this chapter shall be entered on the order book of the supreme court. Upon receipt of a certified transcript of the allowance that is signed by a justice of the supreme court and attested by the seal of the court, the auditor of state shall issue a warrant for the allowance to the treasurer of state.

Sec. 5. (a) The clerk of the supreme court shall certify any opinion, decision, and judgment of the supreme court and of the court of appeals to the lower court from which the cause was appealed, in the manner provided by statute and by the rules of the supreme court.

(b) The clerk of the court from which the cause was appealed, upon receipt of the certification, shall file the certification with the papers in the cause, and that court shall order the opinion, decision, and judgment, including its certification, spread of record in the order book of the court.

Sec. 6. The supreme court shall annually appoint one (1) of its justices to inspect the office of the clerk of the supreme court and to report, at the next term, the condition of the records and books of that office. The report shall be entered on the order book of the court.

Sec. 7. At the expiration of the term of office of the clerk of the supreme court, the clerk shall deliver to the clerk's successor all the books and papers of the clerk's office.

Sec. 8. The clerk of the supreme court shall post a table of fees in a conspicuous place in the clerk's office. If the clerk fails to post a table of fees, the clerk may not demand or receive fees for

services that the clerk renders.

Chapter 5. Supreme Court Sheriff

Sec. 1. (a) On the second Monday of January in each odd-numbered year, the supreme court shall appoint a sheriff.

(b) The sheriff of the supreme court must give bond in the sum of five thousand dollars (\$5,000), with sureties to be approved by the court.

(c) The term of the sheriff's office is two (2) years.

(d) When a vacancy in the sheriff's office occurs in vacation, any two (2) of the justices of the court may appoint a sheriff to serve until the next term of the court, when the vacancy shall be filled by a vote of a majority of the court's justices.

Sec. 2. The sheriff of the supreme court or a county police officer shall:

- (1)** attend the court in term time;
- (2)** execute the orders of the court;
- (3)** preserve order within the court; and
- (4)** execute all process issued out of the court.

Sec. 3. (a) When any process, rule, or order, is received by the sheriff of the supreme court, the sheriff may transmit it by mail to the sheriff of the county where the process, rule, or order is to be served.

(b) The sheriffs of each county are the deputies of the sheriff of the supreme court. However, each county sheriff is liable on the county sheriff's own bond for all acts done by the county sheriff as a deputy of the sheriff of the supreme court.

Sec. 4. (a) A county sheriff acting as a deputy of the sheriff of the supreme court may:

- (1)** enclose any process, rule, or order of the court that the county sheriff receives;
- (2)** direct the process, rule, or order to the sheriff of the supreme court; and
- (3)** deposit the process, rule, or order in a post office in the county sheriff's county ten (10) days before the return day of the process, rule, or order.

A county sheriff that complies with this subsection is not liable for failing to return the process, rule, or order.

(b) If money must be returned with a process, rule, or order described in subsection (a), the county sheriff may transmit the

money by mail, enclosed with the process, rule, or order, addressed to the sheriff of the supreme court. However, the testimony of the postmaster that the payment was mailed is necessary to exempt the county sheriff from liability.

(c) In case of the return of any process, rule, or order of the court described in subsection (a) by any county sheriff, unserved or unsatisfied, the sheriff of the supreme court may visit any county and personally serve the process, rule, or order in the same manner provided by law for the service by county sheriffs. For this service, the sheriff of the supreme court is entitled to receive, for the distance actually traveled in going to and returning from the county seat of the county where the process, rule, or order is to be served, and from the county seat to the place where the process, rule, or order is served, a sum for mileage for each instance equal to the sum per mile paid to state employees and officers plus those other fees allowed by law to county sheriffs, with the rate for mileage to change each time the state government changes its rate per mile. The sum for mileage and fees shall be imposed as costs in the case in which the process, rule, or order is issued, and shall be collected as other costs.

Sec. 5. (a) The mileage and fees for service of any process, rule, or order issued out of the supreme court is the same as in case of similar process from the circuit court.

(b) When any process, rule, or order issued out of the supreme court is served by the county sheriff, the county sheriff is allowed the fees for mileage and one half (1/2) of the fees for service. The remaining half of the fees for service shall be paid the sheriff of the supreme court.

(c) Fees for mileage may be charged only from the county seat of the county in which the process is to be served to the place of service.

(d) When money is collected on any process, rule, or order issued out of the supreme court by the county sheriff, two-thirds (2/3) of the sheriff's allowance is retained by the county sheriff and the remaining one-third (1/3) must be delivered to the sheriff of the supreme court.

Sec. 6. The sheriff of the supreme court must pay both the outgoing and return postage on process, rules, or orders issued by the court and recover the funds expended on postage as part of the

costs of the proceeding.

Sec. 7. The sheriff of the supreme court may require the coroner of any county to act as the sheriff of the supreme court's deputy where the sheriff of that county is an interested party.

Sec. 8. The sheriff of the supreme court is subject to all the penalties and liabilities of sheriffs of the circuit courts.

Sec. 9. (a) The supreme court must allow the sheriff of the supreme court reasonable compensation for fuel, stationery, and extra services. The sheriff of the supreme court may file a statement verified by an oath administered by the clerk of the court specifying each expenditure eligible for compensation.

(b) The compensation allowed to the sheriff of the supreme court by the court shall be entered on the order book of the court. On the presentation of a certified copy of an order for compensation, attested with the seal of the court, to the auditor of state, the auditor of state shall issue a warrant for the payment of compensation to the sheriff to the treasurer of state.

Chapter 6. Office of Judicial Administration

Sec. 1. (a) There is created within the office of chief justice the office of judicial administration.

(b) The office consists of two (2) divisions, entitled:

- (1)** supreme court administration; and
- (2)** state court administration.

(c) The division of supreme court administration shall be headed by a supreme court administrator. The division of state court administration shall be headed by an executive director.

Sec. 2. (a) The personnel of the office of judicial administration shall be appointed by and serve at the pleasure of the chief justice.

(b) The personnel shall devote full time to their official duties and may not engage in any other profession for profit.

(c) Personnel salaries shall be fixed by the supreme court subject to approval by the budget agency.

Sec. 3. (a) The division of state court administration shall do the following:

- (1)** Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.
- (2)** Collect and compile statistical data and other information

on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

(A) The volume, condition, and type of business conducted by the courts.

(B) The methods of procedure in the courts.

(C) The work accomplished by the courts.

(D) The receipt and expenditure of public money by and for the operation of the courts.

(E) The methods of disposition or termination of cases.

(3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by IC 33-24-12.

(6) Administer the judicial technology and automation project fund established by section 12 of this chapter.

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

Sec. 4. (a) The division of state court administration shall establish and administer an office of guardian ad litem and court appointed special advocate services. The division shall use money it receives from the state general fund to administer the office. If funds for guardian ad litem and court appointed special advocate programs are appropriated by the general assembly, the division shall provide matching funds to counties that are required to implement and administer, in courts with juvenile jurisdiction, a

guardian ad litem and court appointed special advocate program for children who are alleged to be victims of child abuse or neglect under IC 31-33. Matching funds must be distributed in accordance with the provisions of section 5 of this chapter. A county may use these matching funds to supplement amounts that are collected as fees under IC 31-40-3-1 and used for the operation of guardian ad litem and court appointed special advocate programs. The division may use its administrative fund to provide training services and communication services for local officials and local guardian ad litem and court appointed special advocate programs. The county fiscal body shall appropriate adequate funds for the county to be eligible for matching funds under this section.

(b) Matching funds provided to a county under this section shall be used for guardian ad litem and court appointed special advocate programs and may be deposited in the county's guardian ad litem or court appointed special advocate fund described in IC 31-40-3.

(c) Any matching funds appropriated to the division of state court administration that are not used before July 1 of each fiscal year do not revert but shall be redistributed under this section on July 1. The division shall redistribute the funds among counties providing guardian ad litem and court appointed special advocate programs that are entitled to receive matching funds.

(d) Money appropriated to the division of state court administration does not revert at the end of a state fiscal year to the state general fund.

Sec. 5. (a) If appropriated by the general assembly, the division of state court administration shall grant to each county with a guardian ad litem or court appointed special advocate program an annual appropriation calculated under the following formula:

STEP ONE: Deduct the annual appropriation to the division of state court administration for administrative expenses.

STEP TWO: Ascertain the number of children in need of services in each county, as determined by the office of family and children, during the preceding state fiscal year.

STEP THREE: Divide the result under STEP TWO by the total number of children in need of services in Indiana, as determined by the office of family and children, during the preceding fiscal year.

STEP FOUR: Multiply the result under STEP THREE by the

remaining state match appropriation.

(b) If, under subsection (a), a county's grant would result in a grant of two thousand dollars (\$2,000) or less, the county is entitled to receive a grant of two thousand dollars (\$2,000). After subtracting the state match appropriation distributed to these counties from the total remaining state appropriation, the division of state court administration shall distribute the remaining state appropriation under the following formula:

STEP ONE: Subtract the total number of children in need of services in the counties covered under subsection (a) from the total number of children in need of services in Indiana as determined by the office of family and children during the preceding state fiscal year.

STEP TWO: Divide the number of children in need of services in each of the counties not covered under subsection (a) by the result under STEP ONE.

STEP THREE: Multiply the result under STEP TWO by the total remaining state match appropriation.

STEP FOUR: Distribute the result under STEP THREE to each county not covered under subsection (a).

Sec. 6. The division of supreme court administration shall perform legal and administrative duties for the justices as are determined by the justices.

Sec. 7. The reports required by section 3(a)(3) of this chapter shall be:

(1) directed to:

- (A) the commission on judicial qualifications;
- (B) the chief justice;
- (C) the clerk of the supreme court; and
- (D) the legislative council;

(2) accessible to the judicial officers of the various courts and to the general public; and

(3) titled "The Indiana Judicial Report".

Reports to the legislative council under subdivision (1)(D) must be in an electronic format under IC 5-14-6.

Sec. 8. The supreme court shall provide by rule of the court for the enforcement of this chapter.

Sec. 9. The authority of the courts to appoint administrative or clerical personnel is not limited by this chapter.

Sec. 10. (a) The executive director shall, with the approval of the supreme court, divide the state geographically into at least eight (8) trial court districts.

(b) On the basis of relevant information compiled by the executive director concerning the volume and nature of judicial workload, the executive director shall recommend to the supreme court the temporary transfer of any judge or judges. The supreme court shall consider the recommendation and temporarily transfer any judge of a trial court of general or special jurisdiction to another court if the temporary transfer is determined to be beneficial to facilitate the judicial work of the court to which the judge is transferred without placing an undue burden on the court from which the judge is transferred. However, a judge may not be temporarily transferred to a court in another county within the district the judge normally serves that, at its nearest point, is more than forty (40) miles from the seat of the county the judge normally serves unless the judge consents to the transfer.

Sec. 11. Any judge transferred to a court in another county shall be paid travel and other necessary expenses by the county to which the judge is transferred. An allowance for expenses shall be certified by the chief justice in duplicate to the auditor of the county. The certificate of allowance is prima facie evidence of the correctness of the claims. An item of expenses certified to be correct must be allowed by the board of commissioners of that county.

Sec. 12. (a) The judicial technology and automation project fund is established to fund the judicial technology and automation project. The division of state court administration shall administer the fund. The fund consists of the following:

- (1)** Deposits made under IC 33-37-9-4.
- (2)** Other appropriations made by the general assembly.
- (3)** Grants and gifts designated for the fund or the judicial technology and automation project.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) There is annually appropriated to the division of state court

administration the money in the fund for the judicial technology and automation project.

Chapter 7. Supreme Court Records

Sec. 1. When the supreme court or a majority of the justices of the supreme court consider it necessary to have all or part of the records of the court transcribed to protect those records from mutilation or decay arising from any cause, the court or justices shall order the clerk of the supreme court to transcribe the records in suitable books to be procured by the clerk for that purpose. The court shall make a reasonable allowance for the transcription to the clerk in an amount that the court considers just and proper. The allowance, when certified by a justice of the court, shall be audited by the auditor of state and paid as similar allowances in other cases.

Sec. 2. (a) When the supreme court makes an order under section 1 of this chapter, the clerk of the supreme court shall procure the books ordered by the court and transcribe in them the records or parts of records as ordered by the court.

(b) Records or parts of records transcribed under this chapter have the force and effect of the original records. Transcripts of records or parts of records transcribed under this chapter, certified by the clerk, under the seal of the court, have the same force and effect as transcripts of the original records.

Sec. 3. (a) The clerk of the supreme court shall prepare for public use, under the direction of the supreme court, a systematic index to the court's records and papers on file in the clerk's office. The index must include the following:

- (1)** The title and number of every cause appealed to the supreme court.
- (2)** The county and court from which appealed.
- (3)** The date of filing the appeal in the clerk's office.
- (4)** The date of every decision and how decided.
- (5)** The number of the box or drawer in which the papers in every case can readily be found.

The clerk shall also properly clean, arrange, and securely tie the papers in each cause and place them in boxes and drawers when they are provided by the proper authorities for that purpose.

(b) The clerk of the supreme court shall also index other papers and records on file in the clerk's office as may be directed by the

supreme court.

Chapter 8. Supreme Court Fees

Sec. 1. (a) The clerk of the supreme court, for the clerk's services, shall, upon proper books to be kept in the clerk's office for that purpose, tax the fees and charge the amounts specified in this chapter. The fees and amounts belong to and are the property of the state.

(b) On March 31, June 30, September 30, and December 31 of each year, the clerk shall:

- (1)** make and file with the auditor of state a verified account of all fees and amounts collected during the preceding three **(3)** months;
- (2)** pay the amount shown to be due the state to the treasurer of state; and
- (3)** file with the treasurer of state a verified report of uncollected fees and amounts due the state of Indiana accruing in cases disposed of during that quarter.

Sec. 2. The clerk of the supreme court shall tax and charge a fee of two hundred fifty dollars (\$250) in each cause filed in either the supreme court or the court of appeals.

Sec. 3. The clerk of the supreme court may, at any time after the services are rendered, issue fee bills under IC 33-37-4-10 for services rendered by the clerk or by another person in the court.

Sec. 4. (a) The clerk of the supreme court shall charge the following fees:

- (1)** For making record and certificate of admission of attorneys to practice before the supreme court, a fee of two dollars (\$2).
- (2)** For making and furnishing to any person, firm, limited liability company, or corporation unauthenticated copies of the opinions of the supreme court and the court of appeals for the purpose of publication by the person, firm, limited liability company, or corporation obtaining the copies, if a contract has been made by the clerk with the person, firm, limited liability company, or corporation to furnish the copies for at least one **(1)** year, a fee of two thousand eight hundred twenty-five dollars (\$2,825) per year, to be paid quarterly in advance.

(b) The clerk of the supreme court may make a contract

described in subsection (a).

(c) This section does not prohibit proprietors of newspapers from copying opinions of the supreme court and the court of appeals or from making abstracts of these opinions for publication in the newspapers.

(d) For all other unauthenticated copies of the opinions of the supreme court and the court of appeals furnished by the clerk of the supreme court to any person, firm, limited liability company, or corporation, the clerk shall charge one dollar (\$1) per page.

(e) The fees and amounts charged under this section shall be deposited by the clerk of the supreme court into the state general fund in the manner and at the time provided for the making of the quarterly reports of other collected fees due the state.

Sec. 5. The quarterly report required to be made by the clerk of the supreme court under section 1 of this chapter must show the number and title of the cause and the amount due the state. The clerk is not required to make any other or different reports, except special reports on the order of the supreme court or the court of appeals, or the written request of the governor or auditor of state.

Sec. 6. (a) The clerk of the supreme court shall tax and charge in favor of the sheriff of the supreme court, or in favor of county sheriffs for their services as the deputies of the sheriff of the supreme court, the fees and amounts provided by law. The fees and amounts described in this subsection do not belong to the state but are the property of the sheriff of the supreme court and the sheriff's agents. When the fees are collected, the fees shall be paid over to the sheriff or the sheriff's agents.

(b) The clerk of the supreme court at the expiration of the clerk's term shall hand over to the clerk's successor in office all of the books, papers, fees, costs, charges, and amounts, together with all money and other property received by the clerk by virtue of the clerk's office or under color of that office.

(c) The attorney general shall enforce the collection, for the use and benefit of the party entitled to them, all fees and amounts collected and retained by the person, including penalties, against any persons liable for the fees and amounts. All unclaimed fees collected under this chapter from former clerks that have been paid in for two (2) years and remain in the office of the clerk of the supreme court for six (6) months uncollected by the person to

whom the fees are due, and all other unclaimed fees in the hands of the clerk of the supreme court, after the expiration of two (2) years from the date when the fees are paid to the clerk, shall be paid into the state treasury, to be held as other funds that escheat to the state. The clerk of the supreme court, when fees are paid into the office of the clerk for the benefit of any other officer or person, shall immediately notify that officer or person by mail that the fees have been paid, the date of payment, and the amount of the payment.

Chapter 9. Appeal Bonds

Sec. 1. In all cases brought to the supreme court by appeal, in which an appeal bond is executed by the plaintiff in the appeal, the clerk of the supreme court shall:

- (1) tax all fees and costs for which the plaintiff is liable in the court, against the principal and sureties on the bonds, as though they were co-plaintiffs or co-defendants;
- (2) issue fee bills or executions for the collection of the fees or costs and executions; and
- (3) collect all judgments that are rendered by the court against the plaintiffs, against the principals and sureties jointly.

Sec. 2. (a) Before delivering a writ for the collection of fees, costs, or execution to the proper officer, the clerk of the supreme court shall endorse on the writ which of the parties is the principal and which is the surety in the writ.

(b) The officer responsible for enforcement of the writ shall first levy upon the property of the principal in the writ. To the extent that sufficient property of the principal cannot be found, the officer shall, without delay, levy the writ upon the property of the surety or sureties, and proceed to sell that property as in other cases.

Sec. 3. A writ may not be issued under this chapter for the collection of fees or costs more than five (5) years after the date the cause was decided in the supreme court.

Chapter 10. Disciplinary Proceedings Against Attorneys

Sec. 1. As used in this chapter, "admission and discipline rule" refers to the Rules for Admission to the Bar and the "Discipline of Attorneys" adopted by the supreme court.

Sec. 2. As used in this chapter, "commission" refers to the disciplinary commission created by Admission and Discipline

Rule 23.

Sec. 3. As used in this chapter, "commissioner" means a member of the disciplinary commission appointed under Admission and Discipline Rule 23.

Sec. 4. As used in this chapter, "executive secretary" refers to the executive secretary of the disciplinary commission.

Sec. 5. A person is immune from civil liability for damages for any sworn or written statements made:

- (1) without malice and transmitted to the commission, the executive secretary, or the executive secretary's staff; or
- (2) in the course of investigatory, hearing, or review proceedings under Admission and Discipline Rule 23.

Sec. 6. The executive secretary, the executive secretary's staff, counsel, investigators, hearing officers, and the commissioners are immune from civil liability for damages for conduct within the scope and arising out of the performance of their duties.

Chapter 11. Indiana Child Custody and Support Advisory Committee

Sec. 1. (a) The Indiana child custody and support advisory committee is established. The committee consists of twelve (12) members as follows:

- (1) One (1) judge or magistrate whose jurisdiction and caseload includes domestic relations.
- (2) One (1) attorney admitted to the practice of law in Indiana who conducts at least fifty percent (50%) of the attorney's practice in the area of domestic relations.
- (3) Eight (8) members of the general assembly, with the members chosen from the standing committees that consider child custody and support matters.
- (4) A custodial parent.
- (5) A noncustodial parent.

(b) The appointments under subsection (a)(3) must include the following:

- (1) Four (4) members from the senate, with not more than two (2) from the same political party and not more than two (2) of the same gender.
- (2) Four (4) members from the house of representatives, with not more than two (2) from the same political party and not more than two (2) of the same gender.

(c) Appointments of the committee members shall be made as follows:

(1) The speaker of the house of representatives shall appoint the members under subsection (a)(1) and (a)(4) and the four (4) members from the house of representatives under subsection (a)(3).

(2) The president pro tempore of the senate shall appoint the members under subsection (a)(2) and (a)(5) and the four (4) members from the senate under subsection (a)(3).

(d) The members appointed under subsection (a)(1) and (a)(2) must be of opposite gender.

(e) The members appointed under subsection (a)(4) and (a)(5) must be of opposite gender.

Sec. 2. (a) An appointment under section 1 of this chapter is for a two (2) year term. A term begins August 1 of a year and an appointment required to be made that year shall be made before August 2.

(b) If a vacancy occurs, the vacancy shall be filled from the same group that was represented by the outgoing member. The new member serves for the remainder of the unexpired term.

Sec. 3. The chairman of the legislative council shall designate a member to serve as chairperson of the committee.

Sec. 4. (a) A member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) A member of the committee who is a state employee but is not a member of the general assembly is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) A member of the committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on an interim study committee established by the legislative

council.

Sec. 5. The committee shall meet at the call of the chairperson. The committee may meet any number of times during the year. However, the committee may not be compensated for more than four (4) meetings during a year.

Sec. 6. (a) The committee shall review the child support guidelines adopted by the supreme court. The committee shall make recommendations, if appropriate, concerning any amendments to the guidelines. In reviewing the guidelines and formulating recommendations, the committee shall consider all relevant matters, including the following:

- (1) The mathematics pertaining to the child support guideline chart.
- (2) The actual costs of supporting a child.
- (3) Whether it is appropriate to calculate child support guideline amounts based primarily upon the ability of the parent to pay rather than the financial needs of the child.
- (4) Equality of child support awards for the children of the parties, regardless of birth order.
- (5) A mechanism that may be employed to modify the amount of support to be paid due to a change in financial circumstances or a change in the number of children being supported by either parent.
- (6) The age of a child to the extent that the child may require different amounts of support at different ages.
- (7) Clarification regarding under what circumstances, if any, support may be abated.
- (8) A mechanism that may be employed to ensure that the guidelines are applied flexibly.
- (9) The application of the guidelines to a split custody situation.
- (10) Whether it is appropriate to base child support guidelines upon the premise that the child should enjoy the same standard of living that the child would have enjoyed if the family remained intact.

(b) In addition to the duties set forth in subsection (a), the committee shall review custody and educational expenses and other items relating to the welfare of a child of a family that is no longer intact.

Sec. 7. The committee shall submit a report to the supreme court administrator and to the legislative services agency not later than August 1 of each year. The report to the legislative services agency must be in an electronic format under IC 5-14-6.

Sec. 8. The supreme court administrator shall distribute the report to the members of the supreme court.

Sec. 9. The supreme court shall review the committee's report. The supreme court may amend the child support guidelines adopted by the supreme court based upon the committee's recommendations.

Chapter 12. Civil Legal Aid Fund

Sec. 1. As used in this chapter, "fund" refers to the civil legal aid fund established by section 5 of this chapter.

Sec. 2. As used in this chapter, "indigent" means an individual whose income is not more than one hundred twenty-five percent (125%) of the federal income poverty level as determined annually by the federal Office of Management and Budget under 42 U.S.C. 9902.

Sec. 3. As used in this chapter, "legal services provider" means a private, nonprofit organization incorporated and operated exclusively in Indiana, the primary function and purpose of which is to provide civil legal services without charge to the indigent.

Sec. 4. To be eligible for the receipt of funds under this chapter, a legal services provider must meet the following requirements:

(1) The legal services provider must have been:

(A) incorporated before July 2, 1997; or

(B) incorporated and providing civil legal aid to the indigent for three (3) years immediately preceding the application for funds from the civil legal aid fund.

(2) The legal services provider must submit an opt-in form to the executive director of the division of state court administration before May 2 of each year. The form must include the following information:

(A) The name, address, and telephone number of the legal services provider.

(B) The Internal Revenue Code 501(c)(3) form of the legal services provider.

(C) The name and address of the executive director and board president of the legal services provider.

(D) A list of all counties within the incorporated service area of the legal services provider.

(E) Certification that the legal services provider has provided legal services to indigent individuals within its service area for the preceding three (3) years and that the legal services provider will continue to provide legal services to the indigent for the year following receipt of funds from the civil legal aid fund.

(3) The legal services provider may not do any of the following:

(A) Make available funds, personnel, or equipment for use in advocating or opposing a plan or proposal, represent a party, or participate in litigation that is intended to or has the effect of altering, revising, or reapportioning a legislative, a judicial, or an elective district at any level of government, including influencing the timing or manner of the taking of a census.

(B) Attempt to influence the issuance, amendment, or revocation of an executive order, regulation, or other statement of general applicability and future effect by a federal, state, or local agency.

(C) Attempt to influence an adjudicatory proceeding of a federal, state, or local agency if such part of the proceeding is designed for the formulation or modification of an agency policy of general applicability and future effect.

(D) Attempt to influence the passage or defeat of legislation, a constitutional amendment, a referendum, an initiative, or similar procedure of the Congress, a state, or a local legislative body.

(E) Attempt to influence the conduct of oversight proceedings of the Legal Services Corporation or a person or an entity receiving financial assistance provided by the Legal Services Corporation.

(F) Pay for a personal service, an advertisement, a telegram, a telephone communication, a letter, printed or written matter, an administrative expense, or a related expense, associated with an activity prohibited in this subdivision.

(G) Initiate or participate in a class action suit.

(H) Support or conduct a training program for the purpose of advocating a particular public policy or encouraging a political activity, a labor or an antilabor activity, a boycott, picketing, a strike, or a demonstration, including the dissemination of information about such a policy or activity. However, this clause may not be construed to prohibit the training of an attorney or a paralegal in the provision of:

- (i) adequate legal assistance to eligible clients; or**
- (ii) advice to an eligible client as to the legal rights of the client.**

(I) Participate in litigation:

- (i) on behalf of a person incarcerated in a federal, state, or local prison; or**
- (ii) arising out of the incarceration of a person described in item (i).**

Sec. 5. (a) The civil legal aid fund is established to provide additional revenue for legal services providers.

(b) The fund is administered by the division of state court administration.

Sec. 6. (a) The division of state court administration shall annually determine the amount to be distributed from the fund to each county's legal services provider under the following formula:

STEP ONE: Determine the number of civil cases filed in the county during the year as reported by the most recent Indiana Judicial Report.

STEP TWO: Determine the number of civil cases filed in Indiana during the year as reported by the most recent Indiana Judicial Report.

STEP THREE: Divide the amount determined in STEP ONE by the amount determined in STEP TWO.

STEP FOUR: Multiply the quotient determined in STEP THREE by the annual amount appropriated under section 7 of this chapter or by the annual amount of the appropriation from the state general fund as provided in the state budget act, whichever is greater.

Except as provided in subsection (b), the product determined in STEP FOUR is the amount to be distributed to the legal services provider or providers having the county in its service area.

(b) In a county where there is more than one (1) legal services provider, the amount distributed from the fund for that county shall be distributed among the legal services providers in direct proportion to the number of legal services providers in that county.

(c) Distributions from the fund shall be made on January 1 and July 1 of each year. Money in the fund is annually appropriated to carry out the purposes of the fund.

Sec. 7. There is appropriated on June 30 and December 31 of each year five hundred thousand dollars (\$500,000) from the state general fund for deposit into the fund.

Chapter 13. Indiana Conference for Legal Education Opportunity

Sec. 1. As used in this chapter, "program" refers to the Indiana conference for legal education opportunity established by section 2 of this chapter.

Sec. 2. The Indiana conference for legal education opportunity is established to assist Indiana minority, low income, or educationally disadvantaged college graduates in pursuing a law degree and a career in the Indiana legal and professional community.

Sec. 3. (a) The program shall be organized and administered by the chief justice of the supreme court. The chief justice shall appoint an advisory committee composed of eight (8) members as follows:

- (1) Two (2) practicing attorneys.
- (2) Two (2) judges.
- (3) Two (2) Indiana law school professors or administrators.
- (4) Two (2) members representing community groups.

(b) The chief justice shall serve as chair of the advisory committee.

(c) Appointed members of the committee serve for three (3) year terms and may be reappointed.

(d) The committee shall solicit applications and select persons for the program who:

- (1) have earned a bachelor's degree;
- (2) have applied to an Indiana law school;
- (3) have demonstrated the interest, motivation, and capacity to earn a law degree; and
- (4) would benefit from the special training offered by the

program.

(e) The committee shall award annual stipends to certified graduates of the program.

Sec. 4. (a) The program must provide for an intensive course of study to prepare the students selected for the demands of a law school education through classroom discussion and instruction in legal research, writing, and analysis.

(b) The program shall be taught by law professors and others from the legal profession and shall be held at an Indiana law school during the summer months.

Sec. 5. (a) The program must provide financial assistance in the form of an annual stipend for those students who successfully complete the course of study and become certified graduates of the program.

(b) To be eligible for the annual stipend, certified graduates must be admitted to an Indiana law school, enroll on a full-time basis, and maintain good academic standing. However, for good cause and to advance the purposes of the program, the advisory committee may waive the requirement that a certified graduate must enroll on a full-time basis.

(c) The stipend may be awarded for up to three (3) successive academic years, if the student remains eligible. However, for good cause, the advisory committee may approve the award of a stipend to a student for more than three (3) successive academic years if:

(1) the student requires more than three (3) successive academic years to earn a law degree; and

(2) the total amount of the stipend that is awarded to the student does not exceed the amount the student would have been awarded if the student had been enrolled:

(A) on a full-time basis; and

(B) for up to three (3) successive academic years.

Sec. 6. The courts of the state are encouraged and requested to develop programs and opportunities to further the purposes of the program.

Sec. 7. During every state fiscal year, there is appropriated from the state general fund to the office of judicial administration, division of state court administration, six hundred twenty-five thousand dollars (\$625,000) to be used for the Indiana conference for legal education opportunity established by this chapter.

SECTION 4. IC 33-25 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 25. COURT OF APPEALS

Chapter 1. Judges; Geographic Districts

Sec. 1. The court of appeals consists of fifteen (15) judges, who serve for the hearing and decision of causes in five (5) geographic districts described in section 2 of this chapter under Article 7, Section 5 of the Constitution of the State of Indiana.

Sec. 2. Indiana is divided into five (5) geographic districts, which shall be designated as the "court of appeals - First District; Second District; Third District; Fourth District; and Fifth District" as follows:

(1) First District: Bartholomew, Boone, Brown, Clark, Clay, Crawford, Daviess, Dearborn, Decatur, Dubois, Fayette, Floyd, Fountain, Franklin, Gibson, Greene, Hancock, Harrison, Hendricks, Henry, Jackson, Jefferson, Jennings, Johnson, Knox, Lawrence, Martin, Monroe, Montgomery, Morgan, Ohio, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Randolph, Ripley, Rush, Scott, Shelby, Spencer, Sullivan, Switzerland, Union, Vanderburgh, Vermillion, Vigo, Warrick, Washington, and Wayne.

(2) Second District: Adams, Blackford, Carroll, Cass, Clinton, Delaware, Grant, Hamilton, Howard, Huntington, Jay, Madison, Marion, Miami, Tippecanoe, Tipton, Wabash, Wells, and White.

(3) Third District: Allen, Benton, DeKalb, Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Newton, Noble, Porter, Pulaski, St. Joseph, Starke, Steuben, Warren, and Whitley.

(4) The entire state constitutes the Fourth District.

(5) The entire state constitutes the Fifth District.

Sec. 3. (a) Judges of the First, Second, and Third Districts of the court of appeals must have resided in their respective districts before appointment to the court. However, judges of the court of appeals appointed before July 1, 1993, must reside in the district from which they are appointed.

(b) The following requirements apply to judges of the Fourth and Fifth Districts of the court of appeals:

(1) One (1) judge must have resided in the First District before appointment to the court.

(2) One (1) judge must have resided in the Second District before appointment to the court.

(3) One (1) judge must have resided in the Third District before appointment to the court.

(c) When a vacancy is created in the court of appeals, the individual who is appointed by the governor to fill the vacancy must be a resident of the district in which the vacancy occurred.

Sec. 4. All districts of the court of appeals shall sit for the hearing and decision of causes in:

(1) Indianapolis; or

(2) any other place that the chief judge of the court of appeals may designate.

Sec. 5. A case appealed to the court of appeals shall be placed upon the docket of the district from which the appeal is taken. If, at any time, the court of appeals believes there is an undue disparity in the number of cases pending on the dockets of the districts, the court of appeals may order the transfer of cases as it considers advisable from one (1) district to another.

Sec. 6. The judges of the court of appeals are competent to sit as judges of the circuit, superior, and criminal courts.

Chapter 2. Retention of Judges

Sec. 1. Judges of the court of appeals shall be approved or rejected by the electorate of Indiana under Article 7, Section 11 of the Constitution of the State of Indiana.

Sec. 2. A judge who wishes to be retained in office shall file a statement with the secretary of state, not later than noon July 15 of the year in which the question of retention of the judge is to be placed on the general election ballot, indicating that the judge wishes to have the question of the judge's retention placed on the ballot. The judge's statement must include a statement of the judge's name as:

(1) the judge wants the judge's name to appear on the ballot; and

(2) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

Sec. 3. This section applies to a judge:

(1) who does not file a statement under section 2 of this

chapter; and

(2) whose term expires under Article 7, Section 11 of the Constitution of the State of Indiana during the year in which the question of the retention of the judge would have been placed on the general election ballot.

The term of a judge expires December 31 of the year in which the question of the judge's retention would have been placed on the ballot.

Sec. 4. This section applies to a judge:

- (1) who files a statement under section 2 of this chapter; and
- (2) whose retention is rejected by the electorate.

The term of a judge ends when the secretary of state issues a certificate under IC 3-12-5-1 stating that the judge has been removed. However, if the judge has filed a petition for a recount under IC 3-12-11, the term of the judge does not end until the state recount commission has issued a certificate under IC 3-12-11-18 stating that the electorate has rejected the retention of the judge.

Sec. 5. The question of approval or rejection of a judge shall be placed on the general election ballot in the form prescribed by IC 3-11-2 and must state "Shall Judge (insert name (as permitted under IC 3-5-7) here) be retained in office?".

Sec. 6. The statement filed under section 2 of this chapter must include a statement that the judge requests the name on the judge's voter registration record be the same as the name the judge uses on the statement. If there is a difference between the name on the judge's statement and the name on the judge's voter registration record, the officer with whom the statement is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the judge's voter registration record to be the same as the name on the judge's statement.

Chapter 3. Rules and Procedures

Sec. 1. (a) The judges of the court of appeals shall select one (1) of their members as chief judge of the court. The member selected retains that office for three (3) years after the effective date of the member's appointment, subject to reappointment in the same manner. However, a member of the court may resign the office of chief judge without resigning from the court. When a vacancy in

the office of chief judge occurs due to absence, illness, incapacity, or resignation, the powers and duties of the chief judge devolve upon the judge of the court of appeals who is senior in length of service. However, if two (2) or more judges are equal in length of service and senior in length of service, the determination of chief judge shall be by lot until the cause of vacancy is terminated or the vacancy is filled.

(b) The members of each district, other than the district from which the chief judge was chosen, shall select one (1) of their members as presiding judge of the district.

Sec. 2. If a judge of the court of appeals:

- (1) is related to a party;
- (2) is interested in a case;
- (3) was a counsel in a case; or
- (4) was the judge who rendered the decision in a lower court that has been appealed to the court of appeals;

the judge shall disqualify himself or herself and not sit to hear the case.

Sec. 3. When a judge disqualifies himself or herself or is otherwise unable to sit for the hearing or decision of a case in the judge's district, the chief judge shall assign a court of appeals judge to the disqualified or absent judge's district for the hearing and decision of the case.

Sec. 4. Except as provided in IC 34-56-1, an appeal may not be taken to the court of appeals in any civil case where the amount in controversy, exclusive of interest and costs, does not exceed fifty dollars (\$50).

Sec. 5. The hearing and argument of cases in the court of appeals shall be in accordance with:

- (1) the rules of the supreme court as to hearing and argument;
- or
- (2) any rules the court of appeals adopts.

Sec. 6. The judicial opinion or decision in each case determined by the court of appeals shall be reduced to writing. Reports of these opinions and decisions may be published and distributed in the manner prescribed by the supreme court.

Sec. 7. (a) In every case reversed by a division of the court of appeals:

- (1) an opinion shall be given on the material questions in the

case in writing; and

(2) the appropriate judgment shall be entered, with directions to the lower court.

(b) In all cases, the opinion and judgment shall be certified to the lower court thirty (30) days after the date allowed by law for the filing of a petition for a rehearing, unless:

(1) an earlier date has been ordered by the division;

(2) a petition for a rehearing is filed; or

(3) the case is transferred or appealed to the supreme court.

If a case is transferred or appealed to the supreme court, or a rehearing is granted, the judgment of the division of the court of appeals is vacated. If a rehearing is denied, the opinion and judgment shall, thirty (30) days after the date of the ruling, be certified to the lower court, unless the case is transferred or appealed to the supreme court.

(c) If the losing party files a waiver of the party's right to file a petition for a rehearing, the opinion shall be immediately certified to the lower court.

Sec. 8. All process, rules, and orders of the court of appeals shall be executed and served by the sheriff of the county in which a process, a rule, or an order has been directed. The sheriff is entitled to collect the fees allowed by law for similar service of process, rules, or orders issued by the supreme court.

Sec. 9. The court of appeals shall have a seal:

(1) designed and provided by the secretary of state at the expense of the state; and

(2) that contains the title of the court on the face of the seal.

Chapter 4. Personnel and Facilities

Sec. 1. The clerk and sheriff of the supreme court shall be clerk and sheriff of the court of appeals.

Sec. 2. (a) The court of appeals may appoint personnel as the court determines necessary.

(b) The judges of each geographic district may appoint law clerks, secretaries, and other personnel necessary for the holding of court and the administration of the court's duties.

Sec. 3. The commissioner of the Indiana department of administration shall provide rooms for the use of the judges and the court of appeals in Indianapolis. The court of appeals:

(1) may:

(A) provide the necessary furniture and stationery and other things necessary for the transaction of the court's business, at the expense of the state; and

(B) make allowances for the items described in clause (A) to be audited and paid out of the state treasury upon presentation of the order of allowance; and

(2) is entitled to access and use the law library of the supreme court equally with the justices of the supreme court.

SECTION 5. IC 33-26 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 26. TAX COURT

Chapter 1. Establishment of the Indiana Tax Court

Sec. 1. The Indiana tax court is established.

Sec. 2. The tax court is a court of record.

Chapter 2. Tax Court Judge

Sec. 1. The tax court consists of one (1) judge.

Sec. 2. The judge of the tax court must:

(1) be a citizen of Indiana; and

(2) have been admitted to the practice of law in Indiana for a period of at least five (5) years.

Sec. 3. (a) The initial term of office of a person appointed to serve as the judge of the tax court begins on the effective date of that appointment and ends on the date of the next general election that follows the expiration of two (2) years from the effective date of that appointment.

(b) The tax court judge may be approved or rejected for an additional term or terms in the same manner as are the justices of the supreme court under IC 33-24-2.

Sec. 4. (a) Except as otherwise provided in this section, a vacancy on the tax court shall be filled as provided in IC 33-27.

(b) Before the expiration of the sixty (60) day period prescribed by IC 33-27-3-4, the governor shall:

(1) appoint to the tax court one (1) of the three (3) persons initially nominated by the judicial nominating commission; or

(2) reject all the persons initially nominated by the commission.

If the governor does reject all the nominees, the governor shall notify the chairman of the judicial nominating commission of that

action. The commission shall then submit the nominations of three (3) new candidates to the governor not later than forty (40) days after receipt of the notice. The governor shall fill the vacancy on the tax court by appointing one (1) of the new candidates within sixty (60) days from the date the names of the new candidates are submitted by the commission.

Sec. 5. (a) The judge of the tax court is entitled to an annual salary equal to the annual salary provided in IC 33-38-5-8 to a judge of the court of appeals. In addition, the judge of the tax court is entitled to the following:

(1) Reimbursement for traveling expenses and other expenses actually incurred in connection with the judge's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(2) A subsistence allowance equal to the amount provided under IC 33-38-5-8 to a judge of the court of appeals who is not the chief judge of the court of appeals.

(b) The judge of the tax court:

(1) shall devote full-time to judicial duties; and

(2) may not engage in the practice of law.

(c) The state shall pay the annual salary prescribed in subsection (a) from the state general fund.

(d) The state shall furnish an automobile to the judge of the state tax court.

Sec. 6. If the judge of the tax court is disqualified from hearing a case or is incapable of exercising judicial duties with respect to the case, the chief justice of the supreme court shall appoint a judge pro tempore to sit in place of the disqualified or absent judge.

Chapter 3. Jurisdiction and Venue

Sec. 1. The tax court is a court of limited jurisdiction. The tax court has exclusive jurisdiction over any case that arises under the tax laws of Indiana and that is an initial appeal of a final determination made by:

(1) the department of state revenue with respect to a listed tax (as defined in IC 6-8.1-1-1); or

(2) the Indiana board of tax review.

Sec. 2. In addition to the jurisdiction described in section 1 of

this chapter, the tax court has:

- (1) any other jurisdiction conferred by statute; and
- (2) exclusive jurisdiction over any case that was an initial appeal of a final determination made by the state board of tax commissioners before January 1, 2002.

Sec. 3. The cases over which the tax court has exclusive original jurisdiction are referred to as original tax appeals in this article. The tax court does not have jurisdiction over a case unless:

- (1) the case is an original tax appeal; or
- (2) the tax court has otherwise been specifically assigned jurisdiction by statute.

Sec. 4. A taxpayer that appeals to the tax court shall, at the time the appeal is filed, elect to have all evidentiary hearings in the appeal conducted in one (1) of the following counties:

- (1) Allen County.
- (2) Jefferson County.
- (3) Lake County.
- (4) Marion County.
- (5) St. Joseph County.
- (6) Vanderburgh County.
- (7) Vigo County.

Sec. 5. A taxpayer that is an appellee in an appeal to the tax court shall, within thirty (30) days after it receives notice of the appeal, elect to have all evidentiary hearings in the appeal conducted in a county listed in section 4 of this chapter.

Sec. 6. The tax court does not have jurisdiction over a case that is an appeal from a final determination made by the department of state revenue under IC 4-32 other than a final determination concerning the gaming card excise tax established under IC 4-32-15.

Chapter 4. Offices and Personnel

Sec. 1. (a) The tax court shall maintain its principal office in Indianapolis.

(b) The Indiana department of administration shall provide suitable facilities for the court in Indianapolis.

(c) If the court hears a case at a location outside Marion County, the executive of the county in which the court sits shall provide the court with suitable facilities.

Sec. 2. (a) The tax court may employ:

- (1) a bailiff;
- (2) a clerk;
- (3) a reporter;
- (4) a clerical assistant; or
- (5) any other personnel that the court needs to perform its duties.

(b) The clerk of the supreme court shall serve as the clerk of the tax court.

Chapter 5. Small Claims Docket

Sec. 1. The tax court shall establish a small claims docket for processing:

- (1) claims for refunds from the department of state revenue that do not exceed five thousand dollars (\$5,000) for any year; and
- (2) appeals of final determinations of assessed value made by the Indiana board of tax review that do not exceed forty-five thousand dollars (\$45,000).

Sec. 2. The tax court shall adopt rules and procedures under which cases on the small claims docket are heard and decided.

Chapter 6. Appellate Review; Rules and Procedures

Sec. 1. (a) The tax court shall try each original tax appeal without the intervention of a jury.

(b) The tax court shall adopt rules and procedures under which original tax appeals are heard and decided.

Sec. 2. (a) A taxpayer who wishes to initiate an original tax appeal must file a petition in the tax court to set aside the final determination of the department of state revenue or the Indiana board of tax review. If a taxpayer fails to comply with any statutory requirement for the initiation of an original tax appeal, the tax court does not have jurisdiction to hear the appeal.

(b) A taxpayer who wishes to enjoin the collection of a tax pending the original tax appeal must file a petition with the tax court to enjoin the collection of the tax. The petition must set forth a summary of:

- (1) the issues that the petitioner will raise in the original tax appeal; and
- (2) the equitable considerations for which the tax court should order the collection of the tax to be enjoined.

(c) After a hearing on the petition filed under subsection (b), the

tax court may enjoin the collection of the tax pending the original tax appeal, if the tax court finds that:

- (1) the issues raised by the original tax appeal are substantial;
- (2) the petitioner has a reasonable opportunity to prevail in the original tax appeal; and
- (3) the equitable considerations favoring the enjoining of the collection of the tax outweigh the state's interests in collecting the tax pending the original tax appeal.

(d) This section does not apply to a final determination of the department of state revenue under IC 4-32 other than a final determination concerning the gaming card excise tax established under IC 4-32-15.

Sec. 3. (a) Subject to subsection (b), with respect to determinations as to whether any issues or evidence may be heard in an original tax appeal that was not heard in the administrative hearing or proceeding, the tax court is governed by the law that applied before the creation of the tax court to appeals to trial courts of final determinations made by the department of state revenue and the state board of tax commissioners.

(b) Judicial review of disputed issues of fact must be confined to:

- (1) the record of the proceeding before the Indiana board of tax review; and
- (2) any additional evidence taken under section 5 of this chapter.

The tax court may not try the case de novo or substitute its judgment for that of the Indiana board of tax review. Judicial review is limited to only those issues raised before the Indiana board of tax review, or otherwise described by the Indiana board of tax review, in its final determination.

(c) A person may obtain judicial review of an issue that was not raised before the Indiana board of tax review only to the extent that the:

- (1) issue concerns whether a person who was required to be notified of the commencement of a proceeding under this chapter was notified in substantial compliance with the applicable law; or
- (2) interests of justice would be served by judicial resolution of an issue arising from a change in controlling law occurring

after the Indiana board of tax review's action.

Sec. 4. (a) The burden of demonstrating the invalidity of an action taken by the state board of tax commissioners is on the party to the judicial review proceeding asserting the invalidity.

(b) The validity of an action taken by the state board of tax commissioners shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(c) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(d) The tax court shall grant relief under section 7 of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the state board of tax commissioners that is:

- (1)** arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (2)** contrary to constitutional right, power, privilege, or immunity;
- (3)** in excess of or short of statutory jurisdiction, authority, or limitations;
- (4)** without observance of procedure required by law; or
- (5)** unsupported by substantial or reliable evidence.

(e) Subsection (d) may not be construed to change the substantive precedential law embodied in judicial decisions that are final as of January 1, 2002.

Sec. 5. (a) This section applies instead of IC 4-21.5-5-12 with respect to judicial review of final determinations of the Indiana board of tax review.

(b) The tax court may receive evidence in addition to that contained in the record of the determination of the Indiana board of tax review only if the evidence relates to the validity of the determination at the time it was taken and is needed to decide disputed issues regarding one (1) or both of the following:

- (1)** Improper constitution as a decision making body or grounds for disqualification of those taking the agency action.
- (2)** Unlawfulness of procedure or decision making process.

This subsection applies only if the additional evidence could not, by due diligence, have been discovered and raised in the administrative proceeding giving rise to a proceeding for judicial

review.

(c) The tax court may remand a matter to the Indiana board of tax review before final disposition of a petition for review with directions that the Indiana board of tax review conduct further factfinding or that the Indiana board of tax review prepare an adequate record, if:

- (1) the Indiana board of tax review failed to prepare or preserve an adequate record;
- (2) the Indiana board of tax review improperly excluded or omitted evidence from the record; or
- (3) a relevant law changed after the action of the Indiana board of tax review and the tax court determines that the new provision of law may control the outcome.

(d) This subsection applies if the record for a judicial review prepared under IC 6-1.1-15-6 contains an inadequate record of a site inspection. Rather than remand a matter under subsection (c), the tax court may take additional evidence not contained in the record relating only to observations and other evidence collected during a site inspection conducted by a hearing officer or other employee of the Indiana board of tax review. The evidence may include the testimony of a hearing officer only for purposes of verifying or rebutting evidence regarding the site inspection that is already contained in the record.

Sec. 6. (a) This section applies instead of IC 4-21.5-5-14 with respect to judicial review of final determinations of the Indiana board of tax review.

(b) The burden of demonstrating the invalidity of an action taken by the Indiana board of tax review is on the party to the judicial review proceeding asserting the invalidity.

(c) The validity of an action taken by the Indiana board of tax review shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(d) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(e) The tax court shall grant relief under section 7 of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the Indiana board of tax review that is:

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;**
- (2) contrary to constitutional right, power, privilege, or immunity;**
- (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory jurisdiction, authority, or limitations;**
- (4) without observance of procedure required by law; or**
- (5) unsupported by substantial or reliable evidence.**

(f) Subsection (e) may not be construed to change the substantive precedential law embodied in judicial decisions that are final as of January 1, 2002.

Sec. 7. (a) The tax court shall render its decisions in writing.

(b) Written decisions of the tax court may be published and distributed in the manner prescribed by the supreme court.

(c) A decision of the tax court remanding the matter of assessment of property under IC 6-1.1-15-8 to the Indiana board of tax review shall specify the issues on remand on which the Indiana board of tax review is to act.

(d) The decisions of the tax court may be appealed directly to the supreme court.

Chapter 7. Representation by Attorney General

Sec. 1. The office of the attorney general shall represent a township assessor, a county assessor, a county auditor, a member of a county property tax assessment board of appeals, or a county property tax assessment board of appeals that:

- (1) made an original determination that is the subject of a judicial proceeding in the tax court; and**
- (2) is a defendant in a judicial proceeding in the tax court.**

Sec. 2. Notwithstanding representation by the office of the attorney general, the duty of discovery is on the parties to the judicial proceeding.

Sec. 3. Discovery conducted under section 2 of this chapter is limited to production of documents from the administrative law judge presiding over the review under IC 6-1.1-15-3. The administrative law judge may not be summoned to testify before the tax court unless verified proof is offered to the tax court that the impartiality of the administrative law judge was compromised concerning the review.

Sec. 4. A township assessor, a county assessor, a county auditor,

a member of a county property tax assessment board of appeals, or a county property tax assessment board of appeals:

(1) may seek relief from the tax court to establish that the Indiana board of tax review rendered a decision that was:

- (A) an abuse of discretion;
- (B) arbitrary and capricious;
- (C) contrary to substantial or reliable evidence; or
- (D) contrary to law; and

(2) may not be represented by the office of the attorney general in an action initiated under subdivision (1).

Chapter 8. Order to Produce Information

Sec. 1. As used in this chapter, "contractor" means a general reassessment, general reassessment review, or special reassessment contractor of the department of local government finance under IC 6-1.1-4-32.

Sec. 2. As used in this chapter, "qualifying county" means a county having a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000).

Sec. 3. As used in this chapter, "qualifying official" refers to any of the following:

- (1) A county assessor of a qualifying county.
- (2) A township assessor of a qualifying county.
- (3) The county auditor of a qualifying county.
- (4) The treasurer of a qualifying county.
- (5) The county surveyor of a qualifying county.
- (6) A member of the land valuation committee in a qualifying county.
- (7) Any other township or county official in a qualifying county who has possession or control of information necessary or useful for a general reassessment, general reassessment review, or special reassessment of property to which IC 6-1.1-4-32 applies, including information in the possession or control of an employee or a contractor of the official.
- (8) Any county official in a qualifying county who has control, review, or other responsibilities related to paying claims of a contractor submitted for payment under IC 6-1.1-4-32.

Sec. 4. Upon petition from the department of local government finance or a contractor, the tax court may order a qualifying official to produce information requested in writing from the

qualifying official by the department of local government finance or the contractor.

Sec. 5. If the tax court orders a qualifying official to provide requested information as described in section 4 of this chapter, the tax court shall order production of the information not later than fourteen (14) days after the date of the tax court's order.

Sec. 6. The tax court may find that any willful violation of this chapter by a qualifying official constitutes a direct contempt of the tax court.

Chapter 9. Fees

Sec. 1. When a complaint is filed, a taxpayer who initiates an original tax appeal shall pay to the clerk of the tax court the same fee as provided in IC 33-37-4-7 for actions in probate court.

Sec. 2. A witness who testifies before the tax court is entitled to receive the same fee and mileage allowance provided to witnesses who testify in a circuit court. The person who calls the witness to testify shall pay the witness fee and mileage allowance.

Sec. 3. The tax court may fix and charge a fee for preparing, comparing, or certifying a transcript. However, the tax court's fee may not exceed the fee charged by circuit courts for the same service.

Sec. 4. The clerk of the tax court shall collect the fees imposed under sections 1 and 3 of this chapter. The clerk shall transmit the fees to the treasurer of state. The treasurer shall deposit the fees in the state general fund.

Sec. 5. If a taxpayer prevails in a complaint that is placed on the small claims docket under IC 33-26-5, the tax court shall order the refund of the taxpayer's filing fee under section 1 of this chapter from the state general fund. The auditor of state shall pay a warrant that is ordered under this section.

SECTION 6. IC 33-27 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 27. JUDICIAL NOMINATING COMMISSION

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Attorney commissoners" means the three (3) individuals admitted to the practice of law who are elected to the

judicial nominating commission by the electors.

Sec. 3. "Electors" means individuals who are attorneys in good standing admitted to the practice of law in Indiana.

Sec. 4. "Mail" includes ordinary mail or personal delivery.

Sec. 5. "Nonattorney commissioners" means the three (3) individuals not admitted to the practice of law who are appointed to the judicial nominating commission by the governor.

Chapter 2. Commissioners, Employees, and Staff

Sec. 1. (a) The governor shall appoint three (3) nonattorney citizens of Indiana, one (1) each from the First District, the Second District, and the Third District of the court of appeals, as commissioners of the judicial nominating commission.

(b) One (1) month before the expiration of a term of office of a nonattorney commissioner, the governor shall either reappoint the commissioner as provided in section 5 of this chapter or appoint a new nonattorney commissioner. All appointments made by the governor to the judicial nominating commission shall be certified to the secretary of state and to the clerk of the supreme court not later than ten (10) days after the appointment.

(c) Except as provided in subsection (e), the governor shall appoint each nonattorney commissioner for a term of three (3) years.

(d) An appointed nonattorney commissioner must reside in the court of appeals district for which the nonattorney commissioner was appointed. A nonattorney commissioner is considered to have resigned the position if the residency of the nonattorney commissioner changes from the court of appeals district for which the nonattorney commissioner was appointed.

(e) When a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the governor in writing. Vacancies in the office of nonattorney commissioners shall be filled by appointment by the governor not later than sixty (60) days after the governor receives notice of the vacancy. The term of the nonattorney commissioner appointed to fill the vacancy is for the unexpired term of the member whose vacancy the new nonattorney commissioner has filled.

Sec. 2. (a) For purposes of electing attorney members to the judicial nominating commission, the state shall be divided into

three (3) districts, corresponding to the First District, the Second District, and the Third District of the court of appeals.

(b) The qualified electors consist of the individuals who are registered with the clerk of the supreme court as attorneys in good standing under the requirements of the supreme court.

(c) The electors of each district shall elect one (1) resident of their district who is admitted to the practice of law in Indiana to the judicial nominating commission. The term of office of each elected member is three (3) years, beginning on the first day of January following the election. During the month before the expiration of an elected member's term of office, an election shall be held to fill the succeeding three (3) year term of office. Attorney commissioners on the commission must reside for the term of their office in the district from which they were elected. An attorney commissioner is considered to have resigned the position if the residency of the attorney commissioner changes from the court of appeals district for which the attorney commissioner was elected.

(d) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the judicial nominating commission shall be filled for the unexpired term of the member creating the vacancy by a special election. An attorney commissioner who is elected to fill an unexpired term shall commence the attorney commissioner's duties immediately upon the certification of the new attorney commissioner's election to the secretary of state.

Sec. 3. The attorney commissioners of the judicial nominating commission shall be elected by the following process:

(1) The clerk of the supreme court shall, at least ninety (90) days before the date of an election, send a notice by mail to the address for each qualified elector shown on the records of the clerk informing the electors that nominations for the election must be made to the clerk of the supreme court at least sixty (60) days before the election.

(2) A nomination in writing accompanied by a signed petition of thirty (30) electors from the nominee's district, and the written consent of the nominee shall be filed, by mail or otherwise, by any electors or group of electors admitted to the practice of law in Indiana who reside in the same district as the nominee, in the office of the clerk of the supreme court at

least sixty (60) days before the election.

(3) The clerk of the supreme court shall prepare and print separate ballots for each court of appeals district. These ballots must contain the names and residence addresses of all nominees residing within the district for which the ballots are prepared, and whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election.

(4) The ballot must read as follows:

**Indiana Judicial Nominating Commission
BALLOT FOR DISTRICT ()**

To be cast by individuals residing in District () and registered with the Clerk of the Supreme Court as an attorney in good standing under the requirements of the Supreme Court. Vote for one (1) member listed below for Indiana Judicial Nominating Commissioner for the term commencing _____.

District ()

(Name) (Address)

(Name) (Address)

(Name) (Address)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the Clerk of the Supreme Court of Indiana, Indianapolis, Indiana, not later than _____.

DESTROY BALLOT IF NOT USED

(5) In each district, the nominee receiving the most votes from the district shall be elected.

(6) The clerk shall also supply with each ballot distributed a certificate, to be completed and signed and returned by the elector voting the ballot, certifying that the voter is registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court, and that the voter voted the ballot returned. A ballot not accompanied by the signed certificate of the voter shall not be counted.

(7) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot may be placed. This envelope shall not be opened until the counting of the ballots.

(8) The clerk of the supreme court shall mail a ballot and the accompanying material to all electors at least two (2) weeks before the date of the election.

(9) The ballot and the accompanying certificate must be received by the clerk of the supreme court by 4 p.m. on the last day of the election period.

(10) Upon receiving the completed ballots and the accompanying certificate the clerk of the supreme court shall insure that the certificates have been completed in compliance with this article. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(11) The clerk of the supreme court, with the assistance of the secretary of state and the attorney general, shall open and canvass all ballots after 4 p.m. on the last day of the election period in the office of the clerk of the supreme court. A ballot received after 4 p.m. may not be counted unless the chief justice orders an extension of time because of unusual circumstances. Upon canvassing the ballots, the clerk of the supreme court shall place all ballots back in their packages. These, along with the certificates, shall be retained in the clerk's office for six (6) months, and the clerk may not permit anyone to inspect them except upon an order of the supreme court.

(12) Not later than ten (10) days after the election, the clerk shall certify the results to the secretary of state.

(13) In an election held for selection of attorney commissioners of the judicial nominating commission, if two (2) or more nominees are tied, the canvassers shall resolve the tie by lot in a manner that they shall determine, and the winner of the lot is considered elected.

Sec. 4. After the attorney commissioners have been elected, and after the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state as provided in this chapter, the clerk shall notify, by regular mail, the members of the commission of their election or appointment.

Sec. 5. A member of the judicial nominating commission may serve until the member's successor is appointed or elected. An

attorney commissioner or a nonattorney commissioner is not eligible for successive reelection or reappointment. However, an attorney commissioner or a nonattorney commissioner who has been appointed or elected to fill a vacancy on the commission for less than one (1) year is eligible upon the expiration of that term, if otherwise qualified, for a succeeding term.

Sec. 6. A member of the judicial nominating commission shall serve without compensation for the member's services, except for per diem and travel expenses and other necessary and reasonable expenses.

Sec. 7. (a) The judicial nominating commission may employ investigators and other experts that the commission determines are necessary to carry out its functions and purposes. The commission may employ special counsel in a proceeding if the commission determines the employment is advisable.

(b) The division of state court administration shall serve the judicial nominating commission in performing the commission's statutory and constitutional functions.

(c) The general assembly may appropriate the sums it considers necessary for expenses that may be incurred in the administration of this article.

Sec. 8. (a) The staff of the judicial nominating commission shall make the findings of fact concerning individuals eligible to fill a vacancy in a judicial office as the commission directs.

(b) The staff shall compile biographical sketches of each nominee running for election to the judicial nominating commission. The information compiled shall be submitted to the clerk of the supreme court for mailing, along with the ballots, to qualified electors. The biographical sketches prepared under this subsection must include the following information for each nominee:

- (1) Name and address.
- (2) Legal background, including:
 - (A) type of practice;
 - (B) law firm; and
 - (C) law school year of graduation, honors, other pertinent information.
- (3) General educational background.
- (4) A short statement by the nominee stating the nominee's

efforts and achievements in bringing about improvement and betterment of the administration of justice.

(5) Public offices or positions, including:

(A) all public salaried positions; and

(B) all services contributed to a public or charitable organization.

(6) Business and civic affairs.

(7) Any other pertinent information that the commission considers important.

(c) The staff shall carry out any other duties assigned to it by the general assembly and by the judicial nominating commission when acting in that capacity and in its capacity as the commission on judicial qualifications.

Sec. 9. The commissioners, employees, and staff of the judicial nominating commission are immune from civil liability for any act or proceeding taken, or communication or statement made, relevant to the evaluation of a candidate under IC 33-27-3-2.

Sec. 10. An agency, an organization, a person, or an association described in IC 33-27-3-2(c) is immune from civil liability for providing information or assistance in an investigation under IC 33-27-3-2 or for testifying before the judicial nominating commission if:

(1) the information or testimony is relevant to the evaluation of a candidate under IC 33-27-3-2(a); and

(2) the information or testimony is:

(A) an expression of opinion; or

(B) a statement of fact made without:

(i) knowledge that the statement is false; or

(ii) reckless disregard for the truth.

Chapter 3. Duties of the Commission; Appointments to Judicial Office

Sec. 1. (a) When a vacancy occurs in the supreme court, the court of appeals, or the tax court, the clerk of the court shall promptly notify the chairman of the commission of the vacancy.

(b) The chairman shall call a meeting of the commission not later than twenty (20) days after receiving the notice.

(c) The commission shall submit the nominations of three (3) candidates for the vacancy and certify them to the governor as promptly as possible, but not later than seventy (70) days after the

time the vacancy occurs.

(d) When it is known that a vacancy will occur at a definite future date, but the vacancy has not yet occurred, the clerk shall notify the commission immediately of the future vacancy, and the commission may, not later than sixty (60) days after receiving the notice of the vacancy, make nominations and submit to the governor the names of three (3) persons nominated for the future vacancy.

Sec. 2. (a) The judicial nominating commission shall submit to the governor, from those names the commission considers for a vacancy, the names of only the three (3) most highly qualified candidates. In determining which candidates are most highly qualified each commission member shall evaluate each candidate, in writing, on the following considerations:

- (1) Legal education, including law schools attended and education after law school, and any academic honors and awards achieved.
- (2) Legal writings, including legislative draftings, legal briefs, and contributions to legal journals and publications.
- (3) Reputation in the practice of law, as evaluated by attorneys and judges with whom the candidate has had professional contact, and the type of legal practice, including experience and reputation as a trial lawyer or trial judge.
- (4) Physical condition, including general health, stamina, vigor, and age.
- (5) Financial interests, including any interest that might conflict with the performance of judicial responsibilities.
- (6) Activities in public service, including writings and speeches concerning public affairs and contemporary problems, and efforts and achievements in improving the administration of justice.
- (7) Any other pertinent information that the commission feels is important in selecting the most highly qualified individuals for judicial office.

(b) The commission may not make an investigation to determine these considerations until the individual states in writing that the individual desires to hold a judicial office that has been or will be created by a vacancy and that the individual consents to the public disclosure of information under subsections (d) and (g).

(c) The commission shall inquire into the personal and legal backgrounds of each candidate by investigations made independent from the statements on an application of the candidate or in an interview with the candidate. In completing these investigations, the commission may use information or assistance provided by:

- (1) a law enforcement agency;
- (2) any organization of lawyers, judges, or individual practitioners; or
- (3) any other person or association.

(d) The commission shall publicly disclose the names of all candidates who have filed for judicial appointment after the commission has received the consent required by subsection (b) but before the commission has begun to evaluate any of the candidates. If the commission's screening of the candidates for judicial appointment occurs in an executive session conducted under IC 5-14-1.5-6.1(b)(10), the screening may not reduce the number of candidates for further consideration to fewer than ten (10) individuals unless there are fewer than ten (10) individuals from which to choose before the screening. When the commission's screening has reduced the number of candidates for further consideration to not less than ten (10) or it has less than ten (10) eligible candidates otherwise from which to choose, the commission shall:

- (1) publicly disclose the names of the individuals and their applications before taking any further action; and
- (2) give notice of any further action in the same manner that notice is given under IC 5-14-1.5.

(e) Information described in subsection (d)(1) is identifying information for the purposes of IC 5-14-1.5-6.1(b)(10).

(f) The commission shall submit with the list of three (3) nominees to the governor its written evaluation of each nominee, based on the considerations set forth in subsection (a). The list of names submitted to the governor and the written evaluation of each nominee shall be publicly disclosed by the commission.

(g) Notwithstanding IC 5-14-3-4, all public records (as defined in IC 5-14-3-2) of the judicial nominating commission are subject to IC 5-14-3-3, including records described in IC 5-14-3-4(b)(12). However, the following records are excepted from public inspection and copying at the discretion of the judicial nominating

commission:

(1) Personnel files of commission employees and files of applicants for employment with the commission to the extent permitted under IC 5-14-3-4(b)(8).

(2) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1, unless the records are prepared for use in the consideration of a candidate for judicial appointment.

(3) Investigatory records prepared for the commission under subsection (c) until:

(A) the records are filed or introduced into evidence in connection with the consideration of a candidate;

(B) the records are publicly discussed by the commission in connection with the consideration of a candidate;

(C) a candidate elects to have the records released by the commission; or

(D) the commission elects to release the records that the commission considers appropriate in response to publicly disseminated statements relating to the activities or actions of the commission;

whichever occurs first.

(4) Applications of candidates for judicial appointment who are not among the applicants eligible for further consideration following the commission's screening under subsection (d).

(5) The work product of an attorney (as defined in IC 5-14-3-2) representing the commission.

(h) When an event described by subsection (g)(3) occurs, the investigatory record becomes available for public inspection and copying under IC 5-14-3-3.

(i) As used in this subsection, "attributable communication" refers to a communication containing the sender's name, address, and telephone number. The commission shall provide a copy of all attributable communications concerning a candidate for judicial appointment to each member of the commission. An attributable communication becomes available for public inspection and copying under IC 5-14-3-3 after a copy is provided to each member of the commission. The commission may not consider a communication other than an attributable communication in

evaluating a candidate for judicial appointment.

(j) The commission shall release the investigatory records prepared for the commission under subsection (c) to the candidate for judicial appointment described by the records.

Sec. 3. If a nominee dies or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee from the list of nominees previously provided. Whenever two (2) or more vacancies exist, the commission shall nominate three (3) different persons for each vacancy and submit a list of the persons nominated to the governor.

Sec. 4. (a) If the governor fails to make an appointment not later than sixty (60) days after the date the names of the nominees are submitted to the governor, the chief justice shall make the appointment from the nominees.

(b) A change in a list submitted to the governor under section 3 of this chapter requires a resubmission of the altered list to the governor, and the sixty (60) day period in which the governor must make the appointment begins on the date of resubmission.

Sec. 5. An individual appointed to the supreme court, the court of appeals, or the tax court by the governor shall commence the duties of the individual's office immediately upon the effective date of the appointment. An appointment to a judicial office does not take effect until a vacancy for the office exists.

Sec. 6. (a) The judicial nominating commission shall meet as necessary to discharge the commission's responsibilities under the Constitution of the State of Indiana and the state laws. Meetings of the commission shall be called by the chairman, or if the chairman fails to call a meeting when a meeting is necessary, upon the call of any four (4) members of the commission. When a meeting is called, the chairman shall give each member of the commission at least five (5) days written notice by mail of the time and place of the meeting unless the commission at its previous meeting designated the time and place of the next meeting.

(b) Meetings of the commission must be held at a place in Indiana, as arranged by the chairman of the commission.

(c) The commission shall act only at a meeting and may act only on the concurrence of a majority of the members attending a meeting. The commission may not vote to reduce the number of

candidates for further consideration or to submit or not submit the list of nominees under subsection (e) during an executive session. Four (4) members constitute a quorum.

(d) The commission may adopt reasonable and proper rules for the conduct of its proceedings and the discharge of its duties. The rules must comply with this chapter and include procedures by which eligible candidates for a vacancy in the supreme court or court of appeals may submit their names to the commission. The rules are public records, and the meetings of the commission at which the rules are considered for initial adoption or amendment must be publicly announced and open to the public.

(e) Notwithstanding IC 5-14-1.5-2, the commission is a public agency for the purposes of IC 5-14-1.5. The commission may meet in executive session under IC 5-14-1.5-6.1 for the consideration of a candidate for judicial appointment if:

- (1) notice of the executive session is given in the manner prescribed by IC 5-14-1.5-5;
- (2) all interviews of candidates are conducted at meetings open to the public; and
- (3) copies of all attributable communications (as defined in section 2(i) of this chapter) concerning the candidates have been provided to all commission members and made available for public inspection and copying.

Chapter 4. Appointment of Senior Judges

Sec. 1. A person who desires to serve as a senior judge under IC 33-23-3 may apply to the judicial nominating commission for certification to the supreme court as a senior judge.

Sec. 2. The judicial nominating commission shall certify to the supreme court a person desiring to serve as a senior judge if the person meets requirements for service as a senior judge set by the supreme court under IC 33-24-3-7.

Sec. 3. (a) Except as provided in subsection (b), a person may not be certified under this section if:

- (1) the person:
 - (A) has not served as a judge or justice; or
 - (B) is still serving as a judge or justice;
of a court of record in Indiana;
- (2) the person is not available for the minimum period of commitment for service as a senior judge specified by the

supreme court under IC 33-24-3-7; or

(3) the combination of:

(A) the compensation for senior judges set under IC 33-23-3-5; and

(B) any retirement benefits that the person is receiving or is entitled to receive;

exceeds the minimum compensation to which judges of the circuit court are entitled under IC 33-38-5.

(b) A person who elects to forgo retirement benefits during the period of commitment as a senior judge may be certified as a senior judge under section 2 of this chapter upon verification by the judicial nominating commission of the availability to the person of the election.

SECTION 7. IC 33-28 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 28. CIRCUIT COURTS

Chapter 1. Jurisdiction, Duties, and Powers

Sec. 1. The circuit court shall be held in the respective counties at times as may be fixed by law. The court shall be styled "_____ Circuit Court", according to the name of the county in which it may be held.

Sec. 2. (a) The circuit court has original jurisdiction in all civil cases and in all criminal cases, except where exclusive jurisdiction is conferred by law upon other courts of the same territorial jurisdiction.

(b) The circuit court also has the appellate jurisdiction that may be conferred by law upon it.

Sec. 3. The judge of a circuit court, within the judge's district, shall take all necessary recognizances to keep the peace, or to answer any criminal charge, or offense, in the court having jurisdiction.

Sec. 4. If there is a process for which a form is not prescribed by law, a circuit court shall frame a new writ in conformity with the principles of the process.

Sec. 5. A circuit court may do the following:

(1) Issue and direct all processes necessary to the regular execution of the law to the following:

(A) A court of inferior jurisdiction.

(B) A corporation.

(C) An individual.

(2) Make all proper judgments, sentences, decrees, orders, and injunctions, issue all processes, and do other acts as may be proper to carry into effect the same, in conformity with Indiana laws and Constitution of the State of Indiana.

(3) Administer all necessary oaths.

(4) Punish, by fine or imprisonment, or both, all contempts of the court's authority.

(5) Proceed in any matter before the court, or in any matter in which the proceedings of the court, or the due course of justice, is interrupted.

(6) Grant commissions for the examination of witnesses according to the regulations of law.

Sec. 6. When the subject matter of a circuit court is situated in two (2) or more counties, the court that takes cognizance of the matter first shall retain the matter.

Sec. 7. The circuit court of each county shall have a seal. A description of the seal must be signed by the judge devising the seal. The seal must be filed by the clerk and recorded.

Sec. 8. (a) This section applies to a new county in which a seal has not been devised for the county's circuit court.

(b) The clerk of a circuit court located in a county subject to this section may seal all papers required by law to be sealed with the seal of the circuit court with the clerk's private seal. Papers sealed with the clerk's seal under this section are considered to have been sealed with a seal devised by the circuit court.

Sec. 9. A suit, process, matter, or proceeding returnable to or pending in any circuit court may not be discontinued by reason of a failure of the judge to attend on the first or any other day of the term.

Sec. 10. If, at any time both the sheriff and the coroner are unable to attend, or if the sheriff and coroner are both incapacitated from serving, the board of county commissioners may appoint an elisor to serve during the pendency of the matter in which the sheriff and coroner are disabled from serving.

Sec. 11. An elisor appointed under section 10 of this chapter shall take the same oath and give the same bond and surety that are required of sheriffs. The elisor has the same authority to

perform all the duties of the sheriff that relate to the service for which the elisor is specially appointed. The elisor is governed by the same rules and subject to the same penalties and liabilities as the sheriff.

Chapter 2. Election of Judges

Sec. 1. (a) A judge of the circuit court shall be elected under IC 3-10-2-11 by the voters of each circuit.

Sec. 2. In any circuit for which IC 33-33 provides more than one (1) judge of the circuit court, the county election board shall assign a number to each seat on the court. After that, any candidate for judge of the circuit court must file a declaration of candidacy under IC 3-8-2 or petition of nomination under IC 3-8-6 for one (1) specified seat of the court. Each seat on the court shall be listed separately on the election ballot in the form prescribed by IC 3-10-1-19 and IC 3-11-2.

Chapter 3. Small Claims and Misdemeanors Division

Sec. 1. This chapter applies to each circuit court for which this title provides a standard small claims and misdemeanor division.

Sec. 2. The small claims and misdemeanor division of the court has the following dockets:

- (1) A small claims docket.
- (2) A minor offenses and violations docket.

Sec. 3. (a) The small claims docket has jurisdiction over the following:

- (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three thousand dollars (\$3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three thousand dollars (\$3,000) in order to bring it within the jurisdiction of the small claims docket.
- (2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three thousand dollars (\$3,000).
- (3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

(b) This section expires July 1, 2005.

Sec. 4. (a) This section applies after June 30, 2005.

(b) The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars (\$6,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars (\$6,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

Sec. 5. (a) The exceptions provided in this section to formal practice and procedure apply to all cases on the small claims docket.

(b) A defendant is considered to have complied with the statute and rule requiring the filing of an answer upon entering an appearance personally or by attorney. The appearance constitutes a general denial and preserves all defenses and compulsory counterclaims, which may then be presented at the trial of the case.

(c) If, at the trial of the case, the court determines:

(1) that the complaint is so vague or ambiguous that the defendant was unable to determine the nature of the plaintiff's claim; or

(2) that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(d) The trial shall be conducted informally, with the objective of dispensing speedy justice between the parties according to the rules of substantive law. The trial is not bound by the statutes or rules governing practice, procedure, pleadings, or evidence except for provisions relating to privileged communications and offers of compromise.

Sec. 6. There is no change of venue from the county as of right in cases on the small claims docket. However, a change of venue from the judge shall be granted as provided by statute and by rules of the supreme court.

Sec. 7. (a) The filing of a claim on the small claims docket is considered a waiver of trial by jury.

(b) The defendant may, not later than ten (10) days following service of the complaint in a small claims case, demand a trial by jury by filing an affidavit that:

- (1) states that there are questions of fact requiring a trial by jury;
- (2) specifies those questions of fact; and
- (3) states that the demand is in good faith.

(c) Notice of the defendant's right to a jury trial, and the ten (10) day period in which to file for a jury trial, must be clearly stated on the notice of claim or on an additional sheet to be served with the notice of claim on the defendant.

(d) Upon the deposit of seventy dollars (\$70) in the small claims docket by the defendant, the court shall transfer the claim to the plenary docket. Upon transfer, the claim then loses its status as a small claim.

Sec. 8. (a) The minor offenses and violations docket has jurisdiction over the following:

- (1) All Class D felony cases.
- (2) All misdemeanor cases.
- (3) All infraction cases.
- (4) All ordinance violation cases.

(b) The court shall establish a traffic violations bureau in the manner prescribed by IC 34-28-5-7 through IC 34-28-5-10.

Sec. 9. (a) The court shall provide by rule for an evening session to be held once each week.

(b) The court shall hold additional sessions in the evening and on holidays as necessary to ensure the just, speedy, and inexpensive determination of every action.

Sec. 10. The court shall comply with all requests made under IC 33-24-6-3 by the executive director of the division of state court administration concerning the small claims and misdemeanor division.

Chapter 4. Jury Commissioners and Jury Service

Sec. 1. (a) This chapter does not apply to a county that chooses under subsection (b) to follow the procedure for jury selection and service set out in IC 33-28-5.

(b) The court administrator or the clerk of the circuit and superior courts of a county may choose to follow the procedure for jury selection and service set out in IC 33-28-5 instead of the

procedure set out in this chapter. The court administrator shall serve as the jury commissioner under IC 33-28-5. If the decision to follow IC 33-28-5 is made, all the provisions of IC 33-28-5 must be followed.

Sec. 2. (a) The circuit court shall, during November, appoint for the next calendar year two (2) persons, at least one (1) of whom shall be a resident of the town or city in which the court shall be held, as jury commissioners.

(b) The jury commissioners appointed under subsection (a) must be freeholders and voters of the county, well known to be of opposite politics, and of good character for intelligence, morality, and integrity.

(c) The circuit court shall cause the jury commissioners to appear and take an oath or affirmation in open court, to be entered of record in the order book of the court in the following form: "You do solemnly swear (or affirm) that you will honestly, and without favor or prejudice, perform the duties of jury commissioners during your term of office, that, in selecting persons to be drawn as jurors, you will select none but persons whom you believe to be of good repute for intelligence and honesty, that you will select none whom you have been or may be requested to select, and that, in all of your selections, you will endeavor to promote only the impartial administration of justice.".

(d) After entering the oath required under subsection (c), the court shall instruct the jury commissioners concerning their duties.

Sec. 3. (a) The jury commissioners shall immediately, from the names of legal voters and citizens of the United States on the latest tax duplicate and the tax schedules of the county, examine for the purpose of determining the sex, age, and identity of prospective jurors, and proceed to select and deposit, in a box furnished by the clerk for that purpose, the names, written on separate slips of paper of uniform shape, size, and color, of twice as many persons as will be required by law for grand and petit jurors in the courts of the county, for all the terms of the courts, to begin with the following calendar year.

(b) Each selection shall be made as nearly as possible in proportion to the population of each county commissioner's district. In making the selections, the jury commissioners shall in all things observe their oaths. The jury commissioners shall not

select the name of any person who is to them known to be interested in or has case pending that may be tried by a jury to be drawn from the names so selected.

(c) The jury commissioners shall deliver the locked box to the clerk of the circuit court, after having deposited into the box the names as directed under this section. The key shall be retained by one (1) of the jury commissioners, who may not be an adherent of the same political party as the clerk.

(d) In a county containing a consolidated city, the jury commissioners may, upon an order made by the judge of the circuit court and entered in the records of the circuit court of the county, make the selections and deposits required under this section monthly instead of annually. The jury commissioners may omit the personal examination of prospective jurors, the examination of voters lists, and make selection without reference to county commissioners' districts. The judge of the circuit court in a county containing a consolidated city may do the following:

(1) Appoint a secretary for the jury commissioners, and sufficient stenographic aid and clerical help to properly perform the duties of the jury commissioners.

(2) Fix the salaries of the commissioners, the secretary, and stenographic and clerical employees.

(3) Provide office quarters and necessary supplies for the jury commissioners and their employees.

The expenses incurred under this subsection shall be paid for from the treasury of the county upon the order of the court.

(e) Subject to appropriations made by the county fiscal body, the jury commissioners may use a computerized jury selection system. However, the system used for the selection system must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors. The jurors selected under the computerized jury selection system must be eligible for selection under this chapter. The commissioners shall deliver the names of the individuals selected to the clerk of the circuit court. The commissioners shall observe their oath in all activities taken under this subsection.

(f) The jury commissioners may supplement voter registration lists and tax schedules under subsection (a) with names from lists of persons residing in the county that the jury commissioners may

designate as necessary to obtain a cross-section of the population of each county commissioner's district. The lists designated by the jury commissioners under this subsection must be used for the selection of jurors throughout the entire county.

(g) The supplemental sources designated under subsection (f) may consist of such lists as those of utility customers, persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses. These supplemental lists may not be substituted for the voter registration list. The jury commissioners may not draw more names from supplemental sources than are drawn from the voter registration lists and tax schedules.

Sec. 4. When a court believes that by reason of numerous challenges in any cause, a special venire should issue for jurors, the court shall direct the clerk to draw from the box described in section 3 of this chapter the number of names considered proper. The persons drawn under this section shall be summoned by virtue of the special venire. If:

- (1) the names in the box are exhausted for any reason; and
- (2) a court of the county cannot be furnished with juries at any term during the calendar year;

the circuit court, or judge of the circuit court in vacation, shall by order require the jury commissioners at a time to be fixed, to deposit in the box the additional number of names as the court or judge shall name in the order. Additional jurors shall be selected under the rules and regulations prescribed in section 3 of this chapter. The box shall then be delivered to the clerk, as provided under section 3 of this chapter, to be drawn by the clerk as may be necessary under section 9 of this chapter.

Sec. 5. The box described in section 3 of this chapter shall remain in possession of the clerk, securely locked. The only key to the box must remain in the possession of the jury commissioner, of opposite politics from the clerk. The clerk shall be present each time the box is opened, for any purpose under this chapter.

Sec. 6. (a) A person may not be appointed a jury commissioner if, at the time of the appointment, the person is:

- (1) a party to; or
- (2) interested in;

a case pending in the county that may be tried by a jury to be

drawn during the calendar year following the year of the appointment.

(b) A person appointed a jury commissioner, who fails to take the office, or having accepted the office, fails without good cause, to discharge any of the duties of the office, is guilty of contempt of the court. A person guilty of contempt under this section shall be summarily punished by fine of at least five dollars (\$5) and not more than one hundred dollars (\$100).

Sec. 7. (a) The circuit court shall appoint a person to fill a vacancy, or to act for a jury commissioner, as the case may require, if:

- (1) a vacancy occurs in the office of jury commissioner;
- (2) a jury commissioner fails to act when required; or
- (3) illness or any other cause renders a jury commissioner unable to act.

(b) A person appointed under subsection (a):

- (1) must possess the qualifications required for jury commissioners;
- (2) must be an adherent of the same political party as is the commissioner in whose stead the person is appointed to serve;
- (3) shall take the oath required by this chapter.

(c) For the time actually employed in the performance of jury commissioner's duties, each jury commissioner shall be allowed a per diem to be fixed by the court and paid out of the county treasury upon the warrant of the county auditor.

Sec. 8. (a) A person shall be excused from acting as a juror if the person:

- (1) is at least sixty-five (65) years of age;
- (2) is a member in active service of the armed forces of the United States;
- (3) is an elected or appointed official of the executive, legislative, or judicial branches of government of:
 - (A) the United States;
 - (B) Indiana; or
 - (C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

- (4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;

(5) is an honorary military staff officer appointed by the governor under IC 10-16-2-5;

(6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-16-8;

(7) is a veterinarian licensed under IC 15-5-1.1;

(8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-3-11-2;

(9) is a dentist licensed under IC 25-14-1;

(10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or

(11) would serve as a juror during a criminal trial and the person is:

(A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(B) the spouse or child of a person described in clause (A); and desires to be excused for that reason.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) The person is under a sentence imposed for an offense.

(5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony conviction and the rights have not been restored.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a

person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

(g) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections (c), (d), and (l), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

(1) after the person is no longer under a sentence imposed for an offense; or

(2) after the person has had the person's rights restored following a conviction.

(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from possessing a firearm.

(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to

complete a specified condition under subsection (i) or whether the person has committed a subsequent offense.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been expunged or if the person has been pardoned.

(l) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

Sec. 9. (a) During the month of December, and at other times the judge considers necessary, the judge of any court of record in which jury trials are had shall by written order direct the clerk of the circuit court to draw grand jurors or petit jurors from the names selected by the jury commissioners. The names shall be drawn by the clerk in the presence of the jury commissioners, in a number equal to the number of jurors to be summoned according to the judge's orders. The names of jurors for each court having criminal jurisdiction shall be drawn first.

(b) At the time of the drawing, the clerk shall enter in the order book of the court a list of the names drawn, in the order in which they were drawn. The clerk shall attach the clerk's certificate to attest to the accuracy of the list. The clerk shall issue venires for the jurors as the courts direct. However, the jurors called to service shall be identified long enough before the trial or grand jury session to permit counsel to study their backgrounds.

(c) Notice to or summons of persons for jury duty shall be served by the clerk of the circuit court upon order of the court.

(d) The sheriff or bailiff shall call the jurors to the jury box in the same order in which their names were drawn. Jurors shall

serve for three (3) months, or for a shorter period if a shorter period is specified in the judge's written order.

(e) This section shall be construed to supplement IC 34-36-2, and IC 34-36-3-5 through IC 34-36-3-7, and other statutory provisions for special juries, for juries by agreement, for juries from other counties, for struck juries, and for special venires. This section shall be construed liberally, to the effect that no indictment shall be quashed, and no trial, judgment, order, or proceeding shall be reversed or held invalid on the ground that the terms of this section have not been followed, unless it appears that the noncompliance was either in bad faith or was objected to promptly upon discovery and was probably harmful to the substantial rights of the objecting party.

Chapter 5. Circuit and Superior Court Jury Selection and Service

Sec. 1. As used in this chapter, "courts" means the circuit and superior courts of a county that choose to follow the procedure for jury selection and service set out in this chapter.

Sec. 2. As used in this chapter, "juror qualification form" means the form prescribed for use by the courts and mailed to each prospective juror, or an electronic data processing facsimile of the form that may be created on magnetic tape, punched cards, or computer discs.

Sec. 3. As used in this chapter, "jury commissioner" means the court administrator or the clerk of the court and includes a deputy court administrator designated by the jury commissioner periodically to act in the jury commissioner's place.

Sec. 4. As used in this chapter, "jury wheel" means any list, physical device, or electronic system for the storage of the names or identifying numbers of prospective jurors.

Sec. 5. As used in this chapter, "master list" means:

- (1) a serially printed list;
- (2) a magnetic tape;
- (3) an addressograph file;
- (4) a punched card file;
- (5) a computer record; or
- (6) another form of record determined by the supervising judge to be consistent with this chapter;

that fosters the policy and protects the rights secured by this

chapter, contains all current, up-to-date voter registration lists for each precinct in the county, and is supplemented by names derived from other sources identified under this chapter.

Sec. 6. As used in this chapter, "qualified jury wheel" means the jury wheel in which there are placed the names or identifying numbers of prospective jurors drawn at random from the master list and who are not disqualified.

Sec. 7. As used in this chapter, "supervising judge" means a judge of the courts who is designated by the judges of the courts to supervise the jury selection process.

Sec. 8. As used in this chapter, "voter registration lists" means the official records of persons registered to vote.

Sec. 9. The jury commissioner and supervising judge under the plan required by section 13 of this chapter shall provide a uniform system of jury selection for the courts ensuring that:

- (1) persons selected for jury service are selected at random from a fair cross-section of the population of the area served by the courts; and
- (2) qualified citizens have the opportunity under this chapter to:
 - (A) be considered for jury service in the county; and
 - (B) fulfill their obligation to serve as jurors when summoned for that purpose.

Sec. 10. (a) The supervising judge is responsible for the selection of jurors as prescribed by this section.

(b) The supervising judge may authorize use of a computerized jury selection system under this chapter.

(c) A system authorized under subsection (b) must be fair and may not violate the rights of persons with respect to impartial and random selection of prospective jurors. Jurors selected under a computerized selection system must be eligible for selection under this chapter.

Sec. 11. (a) The court administrator shall serve as the jury commissioner for the county and has the powers and shall perform the duties prescribed in this chapter for the jury commissioner under the direction of the supervising judge.

(b) When acting as jury commissioner, the court administrator may not receive any compensation in addition to the court administrator's regular salary.

(c) The court administrator may delegate certain duties of the jury commissioner to a deputy court administrator with the approval of the supervising judge.

Sec. 12. (a) Under the supervision of the supervising judge, the jury commissioner shall prepare a written plan for the selection of grand and petit jurors in the county. The plan must be designed to achieve the objectives of, and otherwise comply with, this chapter. The plan must specify the following:

- (1) Source of names for the master list.
- (2) Form of the master list.
- (3) Method of selecting names from the master list.
- (4) Forms of and method for maintaining records of names drawn, jurors qualified, and juror's excuses and reasons to be excused.
- (5) Method of drawing names of qualified jurors for prospective service.
- (6) Procedures to be followed by prospective jurors in requesting to be excused from jury service.
- (7) Number of petit jurors that constitutes a panel for civil and criminal cases or a description of the uniform manner in which this determination is made.

(b) The plan must be placed into operation after approval by the judges of the courts. The judges of the courts shall examine the plan to determine whether it complies with this chapter. If the plan is found not to comply, the court shall order the jury commissioner to make the necessary changes to bring the plan into compliance.

(c) The plan may be modified at any time according to the procedure specified under this chapter.

(d) The plan must be submitted by the jury commissioner to the judges of the courts. The judges of the courts shall approve or direct modification of the plan not later than sixty (60) days after its receipt. The approved plan must go into effect not later than sixty (60) days after approval by the judges of the courts.

(e) The plan is a public document on file in the office of the jury commissioner and must be available for inspection at all reasonable times.

Sec. 13. (a) The jury commissioner shall compile and maintain a master list consisting of all the voter registration lists for the county, supplemented with names from other lists of persons

resident in the county that the supreme court shall periodically designate as necessary to obtain the broadest cross-section of the county, having determined that use of supplemental lists is feasible. The supreme court may designate supplemental lists for use by the courts periodically in a manner that fosters the policy and protects the rights secured by this chapter. Supplemental sources may consist of lists of:

- (1) utility customers;
- (2) property taxpayers; and
- (3) persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses.

Supplemental lists may not be substituted for the voter registration list. In drawing names from supplemental lists, the jury commissioner shall avoid duplication of names.

(b) A person who has custody, possession, or control of any of the lists making up or used in compiling the master list, including those designated under subsection (a) by the supreme court as supplementary sources of names, shall furnish the master list to the jury commissioner for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the courts.

(d) The master list of names is open to the public for examination as a public record. However, the source of names and any information other than the names contained in the source is confidential.

Sec. 14. (a) Names must be drawn for juror service quarterly, based on a calendar year commencing in January. A public drawing of names for the next quarter must be held during the first week of the second month of the quarter next preceding that for which names are being drawn, at a time and place prescribed by the jury commissioner.

(b) The jury commissioner shall create and file an alphabetical list of names drawn under this section. The alphabetical list may be in the form of a serial listing or discreet records (such as punched cards, addressograph plates, or computer records) filed together to constitute the alphabetical list. Names may not be added to the

alphabetical list, except by order of the court. The names drawn or any list compiled from the alphabetical list may not be disclosed to any person other than under this chapter or by order of the supervising judge.

(c) The number of names required to be drawn each quarter must be determined by the jury commissioner after consultation with all judges of the courts who may conduct jury trials during the quarter, taking into consideration the number of jurors required for the grand jury.

(d) The frequency of the drawing of names may be increased by the jury commissioner if the jury commissioner determines it necessary for purposes of fairness, efficiency, or to ensure compliance with this chapter.

(e) Names must be drawn randomly under section 16 of this chapter.

(f) Names drawn from the master list may not be returned to the master list until all nonexempt persons on the master list have been called.

Sec. 15. Assuming the master list contains names in some sequential order, such as an alphabetical or a numeric sequence, the drawing of names from the master list must be performed in the following manner:

(1) The total number of names on the master list is divided by the number of names to be drawn. The next whole number greater than the resulting quotient is the key number, except that the key number is never less than two (2).

(2) A starting name for making the selection is determined by randomly choosing a number between one (1) and the key number, inclusive.

(3) The required number of names is selected beginning with the starting name selected under subdivision (2) and proceeding to successive names appearing in the master list at intervals equal to the key number, recommencing at the beginning of the list until the required number of names is selected.

(4) Upon recommencing at the beginning of the list, or if additional names are subsequently ordered to be drawn from the master list, names previously selected in the process described in subdivision (3) must be disregarded in selecting

the additional names.

(5) An electronic or a mechanical system may be used to draw names from the master list.

Sec. 16. (a) Not later than seven (7) days after the date of the drawing of names from the master list, the jury commissioner shall mail to each person whose name is drawn a juror qualification form. The form must be accompanied by instructions to fill out and return the form by mail to the jury commissioner not later than ten (10) days after its receipt. The instructions must state that requests for excuse from jury service during the next jury term should accompany the return of the qualification form.

(b) The juror qualification form must be designed by the jury commissioner and subject to approval by the judges of the courts as to matters of content and must elicit:

- (1) the prospective juror's name, address, and age; and
- (2) whether the prospective juror:
 - (A) is a citizen of the United States and a resident of the county;
 - (B) is able to read, speak, and understand English;
 - (C) has any physical or mental disability impairing the person's capacity to render satisfactory jury service; or
 - (D) has had rights revoked by reason of a felony conviction and not restored.

The juror qualification form must contain the prospective juror's declaration that the responses are true to the best of the prospective juror's knowledge. Notarization of the juror qualification form is not required.

(c) If a prospective juror is unable to fill out the form, another person may fill out the form for the prospective juror. If the form is completed by a person other than a prospective juror, the form must indicate that another person has done so and the reason for doing so.

(d) If it appears there is an omission, ambiguity, or error in a returned form, the jury commissioner shall resend the form, instructing the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury commissioner not later than ten (10) days after its second receipt.

(e) A prospective juror who fails to return a completed juror qualification form as instructed must be directed by the jury

commissioner to immediately appear before the jury commissioner to fill out a juror qualification form.

(f) When a prospective juror appears for jury service, or when there is an official conversation with the supervising judge or jury commissioner, a prospective juror may be required to fill out another juror qualification form in the presence of the supervising judge or jury commissioner. At this time, the prospective juror may be questioned, but only with regard to responses to questions contained on the form and grounds for the prospective juror's excuse or disqualification. Information acquired under this subsection by the supervising judge or jury commissioner must be noted on the juror qualification form.

Sec. 17. (a) A prospective juror who fails to appear as directed by the jury commissioner under section 16 of this chapter must be ordered by the supervising judge to appear and show cause for the failure to appear as directed. If the prospective juror fails to appear under the supervising judge's order or fails to show good cause for the failure to appear as directed by the jury commissioner, the prospective juror is guilty of criminal contempt.

(b) A person who knowingly misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror commits a Class C misdemeanor.

Sec. 18. (a) The supervising judge or the jury commissioner shall determine solely on the basis of information provided on a juror qualification form or interview with a prospective juror whether the prospective juror is disqualified for jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list.

(b) A person may not be automatically excused under this chapter. Upon request of a prospective juror, the supervising judge or jury commissioner shall determine on the basis of information provided on:

- (1) the juror qualification form;
- (2) correspondence from the prospective juror; or
- (3) an interview with the prospective juror;

whether the prospective juror may be excused from jury service. The jury commissioner shall enter this determination in the space

provided on the juror qualification form.

(c) A person who is not disqualified for jury service may be excused from jury service only upon a showing of:

- (1) undue hardship;
- (2) extreme inconvenience; or
- (3) public necessity;

until the time of the next drawing when the person is resummoned. Appropriate records must be maintained by the jury commissioner to facilitate resummoning.

(d) Requests for excuse, other than those accompanying the return of the qualification form, must be made by the prospective juror in writing to the jury commissioner not later than three (3) days before the date when the prospective juror has been summoned to appear.

Sec. 19. (a) The jury commissioner shall maintain a qualified jury wheel and shall place in the jury wheel the names or identifying numbers of all prospective jurors drawn from the master list who are not disqualified or excused.

(b) The judges of the courts shall, by local court rule, specify the procedure to be used for:

- (1) the selection of qualified prospective jurors under this section; and
- (2) summoning qualified prospective jurors whose names are drawn from the qualified jury wheel.

(c) Upon receipt of an order for a grand jury, the jury commissioner shall publicly, and in accordance with section 20 of this chapter, draw at random from the qualified jury wheel twelve (12) qualified jurors and direct them to appear before the supervising judge. The supervising judge shall randomly select six (6) jurors after:

- (1) explaining to the twelve (12) prospective jurors the duties and responsibilities of a grand jury; and
- (2) excusing jurors under section 18 of this chapter.

(d) Whenever there is an unanticipated shortage of available petit jurors drawn from a qualified jury wheel, the supervising judge may require the jury commissioner to draw additional jurors at random from the qualified jury wheel. Talesmen may not be solicited from among bystanders or from any source except from among names drawn from the qualified jury wheel.

(e) The names of qualified jurors drawn from the qualified jury wheel and the contents of jury qualification forms completed by those jurors may not be made available to the public until the period of service of those jurors has expired. However, attorneys in any cases in which these jurors may serve may have access to the information.

Sec. 20. The same method described in section 15 of this chapter for drawing names from the master list must be followed for drawing names from the qualified jury wheel unless the names in the qualified jury wheel are not in some sequential order as described in section 15 of this chapter. The key number system is not necessary if the names are in the form of ballots or in some other form requiring them to be blindly drawn from a container by hand.

Sec. 21. (a) Not later than seven (7) days after a moving party discovers or by the exercise of diligence could have discovered grounds, but before a petit jury is sworn to try a case, a party may:

- (1) in a civil case move to stay the proceedings; and
- (2) in a criminal case move:
 - (A) to dismiss the indictment (if the case has been brought by indictment);
 - (B) to stay the proceedings; or
 - (C) for other appropriate relief;

on the ground of substantial failure to comply with this chapter in selecting the prospective grand or petit jurors.

(b) Upon a motion filed under subsection (a) containing a sworn statement of facts that, if true, would constitute a substantial failure to comply with this chapter, the moving party may present in support of the motion:

- (1) the testimony of the jury commissioner;
- (2) relevant records and papers not public or otherwise available used by the jury commissioner; and
- (3) other relevant evidence.

(c) If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court:

- (1) shall stay the proceedings pending the selection of the jury in conformity with this chapter; and
- (2) may dismiss an indictment (if the case was brought by

indictment) or grant other appropriate relief.

(d) The procedures required by this section are the exclusive means by which the state, a person accused of an offense, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.

(e) The parties to the case may inspect, reproduce, and copy the records or papers of the jury commissioner at all reasonable times during the preparation and pendency of a motion under subsection (a).

Sec. 22. After the period of service for which names were drawn from the master jury list has expired, and all persons selected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury commissioner or the clerk must be preserved by the clerk of the courts for the period prescribed by rule of the supreme court. The records and papers must be available for public inspection at all reasonable times.

Sec. 23. (a) A person who appears for service as a petit or grand juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service but is not selected and sworn as a juror completes the person's service at the end of one (1) day.

(b) A person who:

(1) serves as a juror under this chapter; or

(2) completes one (1) day of jury selection but is not chosen to serve as a juror;

may not be selected for another jury panel until all nonexempt persons on the master list have been called for jury duty.

Sec. 24. A person summoned for jury service who fails to appear or complete jury service as directed must be ordered by the court to immediately appear and show cause for the person's failure to comply with the summons. If the person fails to show good cause for noncompliance with the summons, the person is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars (\$100) or imprisoned in the county jail for not more than three (3) days, or both.

Sec. 25. The supreme court may adopt rules, not inconsistent with this chapter, regulating the selection and service of jurors.

Chapter 6. Lake County Jury Selection and Service Provisions

Sec. 1. The policy of this chapter is to provide a uniform system of jury selection for all courts so that:

- (1) all persons selected for jury service shall be selected at random from a fair cross-section of the population of the area served by the court; and
- (2) all qualified citizens have the opportunity in accordance with this chapter to be considered for jury service in this county and an obligation to serve as jurors when summoned for that purpose.

Sec. 2. (a) As used in this chapter, "court" means the superior court of a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) The term includes all other courts in the counties.

Sec. 3. As used in this chapter, "juror qualification form" means the form prescribed for use by the court and mailed to each prospective juror, or an electronic data processing facsimile of that form that might be created on magnetic tape, punched cards, or computer discs.

Sec. 4. As used in this chapter, "jury commissioner" includes any deputy court administrator designated by the jury commissioner from time to time to act in the jury commissioner's place.

Sec. 5. As used in this chapter, "jury wheel" means any list, physical device, or electronic system for the storage of the names or identifying numbers of prospective jurors.

Sec. 6. As used in this chapter, "master list" means all current, up-to-date voter registration lists for each precinct in the county supplemented with names from other sources prescribed pursuant to this chapter, in order to foster the policy and protect the rights secured by this chapter. The master list may be in the form of a serially printed list, a magnetic tape, an addressograph file, punched cards, or such other form considered by the chief judge to be consistent with this chapter.

Sec. 7. As used in this chapter, "qualified jury wheel" means the jury wheel in which there are placed the names or identifying numbers of prospective jurors drawn at random from the master list and who are not disqualified.

Sec. 8. As used in this chapter, "voter registration lists" means

the official records of persons registered to vote in the most recent general election.

Sec. 9. A citizen may not be excluded from jury service in counties affected by this chapter on account of race, color, religion, sex, national origin, or economic status.

Sec. 10. (a) The chief judge of the superior court within counties affected by this chapter is responsible for the selection of jurors as prescribed by this section.

(b) The chief judge of the superior court may authorize the use of a computerized jury selection system under this chapter. However, the system used for the selection system must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors. The jurors selected under the computerized selection system must be eligible for selection under this chapter.

Sec. 11. (a) The court administrator of the court shall also serve as the jury commissioner for the county, and has the powers and shall perform the duties prescribed in this chapter for jury commissioners, under the direction of the chief judge.

(b) The court administrator in the court administrator's role as jury commissioner shall not receive any compensation in addition to the court administrator's regular salary.

(c) Performance of certain duties of the jury commissioner may be delegated to a deputy court administrator with the express approval of the chief judge.

(d) The jury commissioner may choose to follow the procedure for jury selection and service set out in IC 33-28-5 instead of the procedure set out in this chapter. If the decision to follow IC 33-28-5 is made, all the provisions of IC 33-28-5 must be followed.

Sec. 12. (a) The jury commissioner, under the supervision of the chief judge, shall prepare a written plan for the selection of grand and petit jurors in this county designed to achieve the objectives of, and otherwise comply with the provisions of, this chapter. This plan must specify the following:

- (1)** The source of names for the master list.
- (2)** The form of the list.
- (3)** The method of selecting names from the list.
- (4)** The forms of, and method for, maintaining records of

names drawn, jurors qualified, and juror's excuses and reasons therefore.

(5) The method of drawing names of qualified jurors for prospective service.

(6) The procedures to be followed by prospective jurors in requesting excuse from jury service.

The plan must either specify the number of petit jurors that constitute a panel for civil and criminal cases or describe the uniform manner in which this determination shall be made.

(b) The plan shall be placed into operation after approval by the court. The judges of the court shall examine the plan to ascertain that it complies with the intent and provisions of this chapter. If the plan is found not to comply, the court shall order the jury commissioner to make the necessary changes.

(c) The plan may be modified at any time under the procedure specified under this chapter.

(d) The plan shall be submitted by the jury commissioner to the court. The court shall approve or direct modification of the plan within sixty (60) days after its receipt. The approved plan shall go into effect not more than sixty (60) days after approval by the court.

(e) The plan is a public document on file in the office of the jury commissioner and available for inspection at all reasonable times.

Sec. 13. (a) The jury commissioner shall compile and maintain a master list consisting of all the voter registration lists for the county, supplemented with names from other lists of persons resident in the county that the supreme court shall periodically designate as necessary to obtain the broadest cross-section of the county, having determined that use of the supplemental lists is feasible. The supreme court shall exercise the authority to designate supplemental lists periodically in order to foster the policy and protect the rights secured by this article. The supplemental sources may include lists of utility customers, property taxpayers, and persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses. Supplemental lists may not be substituted for the voter registration list. In drawing names from supplemental lists, the jury commissioner shall avoid duplication of names.

(b) Whoever has custody, possession, or control of any of the

lists making up or used in compiling the master list, including those designated under subsection (a) by the supreme court as supplementary sources of names, shall furnish the list to the jury commissioner for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the court.

(d) The master list of names shall be open to the public for examination as a public record, except that the source of names and any information other than the names contained in that source may not be public information.

Sec. 14. (a) Names shall be drawn for juror service quarterly, based on a calendar year commencing in January. A public drawing shall be held of names for the next quarter during the first week of the second month of the quarter next preceding that for which names are being drawn, at a time and place prescribed by the jury commissioner.

(b) An alphabetic list of names so drawn shall be created and filed in the office of the jury commissioner. The list may be in the form of a serial listing or discreet records (such as punched cards or addressograph plates) filed together to constitute the list. Names may not be added to this list, except by order of the court. The names drawn or any list compiled from the names drawn may not be disclosed to any person other than under this chapter or specific order of the chief judge.

(c) The number of names required to be drawn each quarter shall be determined by the jury commissioner after consultation with all judges who may conduct jury trials during the quarter, taking into consideration the number of jurors required for the grand jury.

(d) The frequency of drawing of names may be increased by the jury commissioner without amendment to this chapter when the jury commissioner considers it necessary for purposes of fairness or efficiency or to ensure compliance with this chapter.

(e) Names shall be drawn randomly in the manner prescribed in section 15 of this chapter.

(f) Names drawn from the master list may not be returned to the list until one (1) year after the date of the drawing of the name.

Sec. 15. (a) If the master list contains names in some sequential order, such as alphabetic or numeric sequence, the drawing of names from the master list shall be performed in the following manner:

STEP ONE: The total number of names on the master list shall be divided by the number of names desired to be drawn. The whole number next greater than the resulting quotient shall be the "key number" except that the key number may not be less than two (2).

STEP TWO: A "starting name" for making the selection shall then be determined by randomly choosing a number between one (1) and the "key number", inclusive.

STEP THREE: The required number of names shall then be selected beginning with the "starting name" selected under STEP TWO and proceeding to successive names appearing in the master list at intervals equal to the "key number", recommencing at the beginning of the list until the required number of names has been selected.

(b) Upon recommencing at the beginning of the list, or if additional names are subsequently ordered to be drawn from the master list, names previously selected in the process described in subsection (a) STEP THREE shall be disregarded in selecting the additional name.

(c) An electronic or a mechanical system may be used to draw names from the master list.

Sec. 16. (a) Not more than one (1) calendar week after the date of the drawing of names from the master list, the jury commissioner shall cause to be mailed to each person whose name is drawn a juror qualification form. The form shall be accompanied by instructions to fill out and return the form by mail to the jury commissioner within ten (10) days after its receipt. The instructions shall further state that requests for excuse from jury service during the next jury term should accompany return of the qualification form.

(b) The juror qualification form:

- (1)** shall be designed by the jury commissioner subject to approval by the court as to matters of content; and
- (2)** must elicit the name, address of residence, and age of the prospective juror and whether the prospective juror:

- (A) is a citizen of the United States and a resident of the county;
- (B) is able to read, speak, and understand the English language;
- (C) has any physical or mental disability impairing the prospective juror's capacity to render satisfactory jury service; or
- (D) has had rights revoked by reason of a felony conviction and not restored.

The juror qualification form must contain the prospective juror's declaration that the prospective juror's responses are true to the best of prospective juror's knowledge. Notarization of the juror qualification form is not required.

(c) If the prospective juror is unable to fill out the form, another person may do it for the prospective juror. A person filling out the form for a prospective juror shall indicate that the person has done so and the reason that the prospective juror was unable to fill out the form.

(d) If it appears there is an omission, ambiguity, or error in a returned form, the jury commissioner shall again send the form, instructing the prospective juror to:

- (1) make the necessary addition, clarification, or correction; and
- (2) return the form to the jury commissioner within ten (10) days after its second receipt.

(e) A prospective juror who fails to return a completed juror qualification form as instructed shall be directed by the jury commissioner to appear before the jury commissioner to fill out a juror qualification form.

(f) At the time of a prospective juror's appearance for jury service, or at the time of any official conversation with the court or jury commissioner, any prospective juror may be required to fill out another juror qualification form in the presence of the court or jury commissioner. At this time the prospective juror may be questioned, but only with regard to the prospective juror's responses to questions contained on the form and grounds for the prospective juror's excuse or disqualification. Any information thus acquired by the court or clerk shall be noted on the juror qualification form.

(g) A prospective juror who fails to appear as directed by the jury commissioner under this section shall be ordered by the court to appear and show cause for the prospective juror's failure to appear as directed. If the prospective juror fails to appear under the court's order or fails to show good cause for the prospective juror's failure to appear as directed by the jury commissioner, the prospective juror is guilty of criminal contempt.

(h) A person who knowingly misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror commits a Class C misdemeanor.

Sec. 17. (a) The court or the jury commissioner shall determine solely on the basis of information provided on the juror qualification form or interview with the prospective juror whether or not the prospective juror is disqualified for jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list.

(b) A prospective juror is disqualified to serve on a jury if the prospective juror:

- (1) is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county;
- (2) is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
- (3) is incapable, by reasons of a physical or mental disability, of rendering satisfactory jury service; or
- (4) has had the prospective juror's rights revoked by reason of a felony conviction and not restored.

(c) A person claiming a disqualification under subsection (b)(3) may be required to submit a physician's or an authorized Christian Science practitioner's certificate as to the disability. The court may subject the certifying physician or practitioner to inquiry.

Sec. 18. (a) The jury commissioner shall maintain a qualified jury wheel and shall place in the jury wheel the names or identifying numbers of all prospective jurors drawn from the master list who are not disqualified or excused.

(b) A judge of any court or any other state or county official having the authority to conduct a trial or hearing with a jury

within the county by order may direct the jury commissioner to draw and assign to that court or official the number of qualified jurors necessary for one (1) or more petit jury panels. Upon receipt of the order and in a manner prescribed in section 20 of this chapter, the jury commissioner shall publicly draw at random from the qualified jury wheel the number of qualified jurors required by the order and assign the qualified jurors so drawn to the court's jury panel.

(c) Upon receipt of an order for a grand jury, the jury commissioner shall publicly and in a manner prescribed in section 20 of this chapter draw at random from the qualified jury wheel twelve (12) qualified jurors who shall be directed to appear before the chief judge. The chief judge shall randomly select six (6) jurors and one (1) alternate juror after having explained to the twelve (12) prospective jurors the duties and responsibilities of a grand jury and having excused jurors as prescribed in section 21 of this chapter.

(d) An alphabetical listing of grand and petit jurors assigned to each court location shall be maintained by the jury commissioner and a copy transmitted to the judge for whom the names have been drawn.

(e) If a grand, petit, or other jury is ordered to be drawn, the clerk shall cause each person drawn for jury service to be served with a summons either personally or by registered or certified mail, return receipt requested, addressed to the person at the person's usual residence, business, or post office address. The summons requires the person to report for jury service at a specified time and place.

(f) If there is an unanticipated shortage of available petit jurors drawn from a qualified jury wheel, the court may require the jury commissioner to:

- (1) draw additional jurors at random from the qualified jury wheel; or
- (2) send available jurors from another panel to the court location requiring additional jurors.

Talesmen may not be solicited from among bystanders or from any source except from among names drawn from the qualified jury wheel.

(g) The names of qualified jurors drawn from the qualified jury

wheel and the contents of jury qualification forms completed by those jurors may not be made available to the public until the period of service of those jurors has expired, except that attorneys in any cases in which these jurors may serve shall have access to the information.

Sec. 19. A qualified prospective juror is not exempt from jury service except for the following:

(1) Members in active service of the Armed Forces of the United States who are actively engaged in the performance of their official duties.

(2) Elected or appointed officials of the executive, legislative, or judicial branches of government of the:

(A) United States;

(B) State of Indiana; or

(C) counties affected by this chapter;

who are actively engaged in the performance of their official duties.

(3) A person who:

(A) would serve as a juror during a criminal trial; and

(B) is:

(i) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(ii) the spouse or child of a person described in item (i); and desires to be excused for that reason.

Sec. 20. The same method described in section 15 of this chapter for drawing names from the master list shall be followed for drawing names from the qualified wheel unless the names in the qualified wheel are not in some sequential order as described in section 15 of this chapter. If the names are in the form of ballots or in some other form in which they must be blindly drawn from a container by hand, the key number system is not necessary.

Sec. 21. (a) Except as provided in section 19 of this chapter, a person may not be automatically excused under this chapter. The chief judge or jury commissioner, upon request of a prospective juror, shall determine on the basis of information provided on the juror qualification form, correspondence from the prospective juror, or interview with the prospective juror whether the prospective juror should be excused from jury service. The jury

commissioner shall enter this determination in the space provided on the juror qualification form.

(b) A person who is not disqualified for jury service may be excused from jury service only upon a showing of undue hardship, extreme inconvenience, or public necessity, until the time of the next drawing at which time the person will be resummoned. Appropriate records shall be maintained by the jury commissioner to facilitate a resummoning.

(c) Requests for excuse, other than those accompanying return of the qualification form, shall be made by the prospective juror in writing to the presiding judge not later than three (3) weeks before the date upon which the prospective juror has been summoned to appear.

Sec. 22. (a) Not more than seven (7) days after the moving party discovered or by the exercise of diligence could have discovered the grounds and before the petit jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case, to dismiss the indictment (if the case has been brought by indictment) or stay the proceedings or for other appropriate relief, on the ground of substantial failure to comply with this chapter in selecting the prospective grand or petit jurors.

(b) Upon motion filed under subsection (a) containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with this chapter, the moving party is entitled to present in support of the motion the testimony of the jury commissioner any relevant records and papers not public or otherwise available used by the jury commissioner and any other relevant evidence. If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court shall stay the proceedings pending the selection of the jury in conformity with this article, and may dismiss an indictment (if the instant case was brought by indictment) or grant other appropriate relief.

(c) The procedures prescribed by this section are the exclusive means by which the state, a person accused of an offense, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.

(d) The parties to the case may inspect, reproduce, and copy the records or papers of the jury commissioner at all reasonable times

during the preparation and pendency of a motion under subsection (a).

Sec. 23. After the period of service for which names were drawn from the master jury list has expired, and all persons elected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury commissioner or the clerk shall be preserved by the clerk for a period as prescribed by rule of the supreme court and must be available for public inspection at all reasonable times.

Sec. 24. In any one (1) year period, a person may not be eligible or required to be available for service as a petit or grand juror for more than one (1) term of service, except when necessary to complete service in a particular case. The term of service shall be three (3) months unless a shorter jury term is ordered by the chief judge due to a sustained increase in frequency or length of jury trials that would result in a requirement for jurors to be present at court more than ten (10) court days during the quarter, except as necessary to complete service in a particular case.

Sec. 25. A person summoned for jury service who fails to appear or to complete jury service as directed shall be ordered by the court to appear and show cause for the person's failure to comply with the summons. If the person fails to show good cause for noncompliance with the summons, the person is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars (\$100) or imprisoned in the county jail not more than three (3) days, or both.

Sec. 26. The supreme court may make and amend rules, not inconsistent with this chapter, regulating the selection and service of jurors.

SECTION 8. IC 33-29 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 29. SUPERIOR COURTS

Chapter 1. Provisions Concerning Standard Superior Courts

Sec. 1. Except as otherwise provided in IC 33-33, this chapter applies to standard superior courts established in IC 33-33.

Sec. 2. A standard superior court may have a seal containing the words " _____ (insert name of county in which the court is located) Superior Court _____ (insert court number for multiple

courts), _____ (insert name of county) County, Indiana".

Sec. 3. (a) A standard superior court judge is elected at the general election every six (6) years in the county in which the court is located. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as a judge of a standard superior court, a person must be:

- (1)** a resident of the county in which the court is located;
- (2)** less than seventy (70) years of age at the time the judge takes office; and
- (3)** admitted to practice law in Indiana.

Sec. 4. The judge of a standard superior court:

- (1)** has the same powers relating to the conduct of business of the court as the judge of the circuit court of the county in which the standard superior court is located; and
- (2)** may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 5. (a) The judge of a standard superior court shall appoint a bailiff and an official court reporter for the court.

(b) The salaries of the bailiff and the official court reporter shall be:

- (1)** fixed in the same manner as the salaries of the bailiff and the official court reporter for the circuit court of the county in which the standard superior court is located; and
- (2)** paid monthly:
 - (A)** out of the treasury of the county in which the standard superior court is located; and
 - (B)** as provided by law.

Sec. 6. The clerk of a standard superior court, under the direction of the judge of the court, shall provide:

- (1)** order books and fee books;
- (2)** judgment dockets and execution dockets; and
- (3)** other books for the court;

that must be kept separately from the books and papers of other courts.

Sec. 7. (a) The county executive for the county in which the standard superior court is located shall provide and maintain:

- (1)** a suitable courtroom;

(2) furniture and equipment; and
(3) other rooms and facilities;
necessary for the operation of the court.

(b) The county fiscal body shall appropriate sufficient funds for the provision and maintenance of the items described in subdivisions (1) through (3).

Sec. 8. (a) The jury commissioners appointed by the judge of the circuit court of the county in which the standard superior court is located shall serve as the jury commissioners for the standard superior court.

(b) A jury in the standard superior court shall be selected in the same manner as a jury in the circuit court of the county in which the standard superior court is located.

(c) A grand jury selected for the circuit court of the county in which the standard superior court is located shall serve as the grand jury for the standard superior court.

Sec. 9. (a) The judge of the circuit court of the county in which the standard superior court is located may, with the consent of the judge of the standard superior court, transfer any action or proceeding from the circuit court to the standard superior court.

(b) The judge of a standard superior court may, with the consent of the judge of the circuit court, transfer any action or proceeding from the standard superior court to the circuit court of the county in which the standard superior court is located.

Sec. 10. (a) The judge of the circuit court of the county in which the standard superior court is located may, with the consent of the judge of the standard superior court, sit as a judge of the standard superior court in any matter as if the circuit court judge were an elected judge of the standard superior court.

(b) The judge of a standard superior court may, with the consent of the judge of the circuit court, sit as the judge of the circuit court of the county in which the standard superior court is located in any matter as if the judge of the standard superior court were the elected judge of the circuit court.

Chapter 2. Provisions Governing Standard Small Claims and Misdemeanor Division

Sec. 1. This chapter applies to each superior court for which IC 33-33 provides a standard small claims and misdemeanor division.

Sec. 2. The small claims and misdemeanor division of the court has the following dockets:

- (1) A small claims docket.**
- (2) A minor offenses and violations docket.**

Sec. 3. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following:

- (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three thousand dollars (\$3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three thousand dollars (\$3,000) in order to bring it within the jurisdiction of the small claims docket.**
- (2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three thousand dollars (\$3,000).**
- (3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.**

(b) This subsection applies to a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000). The small claims docket has jurisdiction over the following:

- (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars (\$6,000) in order to bring it within the jurisdiction of the small claims docket.**
- (2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars (\$6,000).**
- (3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.**

(c) This section expires July 1, 2005.

Sec. 4. (a) This section applies after June 30, 2005.

(b) The small claims docket has jurisdiction over the following:

- (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the**

defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars (\$6,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars (\$6,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

Sec. 5. (a) The exceptions provided in this section to formal practice and procedure apply to all cases on the small claims docket.

(b) A defendant is considered to have complied with the statute and rule requiring the filing of an answer upon entering an appearance personally or by attorney. The appearance constitutes a general denial and preserves all defenses and compulsory counterclaims, which may then be presented at the trial of the cause.

(c) If, at the trial of the cause, the court determines:

(1) that the complaint is so vague or ambiguous that the defendant was unable to determine the nature of the plaintiff's claim; or

(2) that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(d) The trial shall be conducted informally, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law. The trial is not bound by the statutes or rules governing practice, procedure, pleadings, or evidence except for provisions relating to privileged communications and offers of compromise.

Sec. 6. There is no change of venue from the county as of right in cases on the small claims docket. However, a change of venue from the judge shall be granted as provided by statute and by rules of the supreme court.

Sec. 7. (a) The filing of a claim on the small claims docket is considered a waiver of trial by jury.

(b) A defendant may, not later than ten (10) days following service of the complaint in a small claims case, demand a trial by

jury by filing an affidavit that:

- (1) states that there are questions of fact requiring a trial by jury;**
- (2) specifies those questions of fact; and**
- (3) states that the demand is in good faith.**

(c) Notice of the defendant's right to a jury trial, and the ten (10) day period in which to file for a jury trial, shall be clearly stated on the notice of claim or on an additional sheet to be served with the notice of claim on the defendant.

(d) Upon the deposit of seventy dollars (\$70) in the small claims docket by the defendant, the court shall transfer the claim to the plenary docket. Upon transfer, the claim then loses its status as a small claim.

Sec. 8. (a) The minor offenses and violations docket has jurisdiction over the following:

- (1) All Class D felony cases.**
- (2) All misdemeanor cases.**
- (3) All infraction cases.**
- (4) All ordinance violation cases.**

(b) The court shall establish a traffic violations bureau in the manner prescribed by IC 34-28-5-7 through IC 34-28-5-13.

Sec. 9. (a) The court shall provide by rule for an evening session to be held one (1) time each week.

(b) The court shall hold additional sessions in the evening and on holidays as necessary to ensure the just, speedy, and inexpensive determination of every action.

Sec. 10. The court shall comply with all requests made under IC 33-24-6-3 by the executive director of the division of state court administration concerning the small claims and misdemeanor division.

Chapter 3. Small Claims Referees

Sec. 1. This chapter applies to each superior court having a standard small claims and misdemeanor division for which a judge of the superior court is authorized under IC 33-33 to appoint a small claims referee.

Sec. 2. (a) A small claims referee shall serve at those times the court requires.

(b) A small claims referee:

- (1) must be admitted to the practice of law in Indiana;**

- (2) is not required to be a resident of the county; and
- (3) continues in office until removed by the judge of the court.

Sec. 3. The appointment of the small claims referee:

- (1) must be in writing; and
- (2) does not prohibit the private practice of law by the appointee.

Sec. 4. A small claims referee may:

- (1) administer all oaths and affirmations;
- (2) take and certify affidavits and depositions;
- (3) issue subpoenas for witnesses;
- (4) compel the attendance of witnesses; and
- (5) punish contempts;

for matters within the small claims jurisdiction of the court.

Sec. 5. The small claims referee shall:

- (1) conduct trials of small claims cases;
- (2) for cases disposed of by trial, submit written findings of fact, conclusions of law, and recommendations for final judgments to the judge of the court; and
- (3) for cases disposed of without trial, submit a written disposition report to the judge of the court.

Sec. 6. The judge of the court may:

- (1) limit any of the rights or powers of the small claims referee; and
- (2) specifically determine the duties of the small claims referee within the limits established in this chapter.

Chapter 4. Division of Rooms in Superior Courts

Sec. 1. In a county that has a superior court consisting of two (2) or more judges, the court shall be divided into rooms.

Sec. 2. The rooms described in section 1 of this chapter shall be numbered consecutively, beginning with No. 1. The judges of the courts shall be nominated and elected by rooms. However, any one (1) judge may sit as judge in the other rooms of the court.

Chapter 5. Terms and Powers of Superior Courts

Sec. 1. (a) Except as provided in subsection (b), terms and powers described in this chapter apply to superior courts except as otherwise provided in the particular statute creating the superior court for a particular county.

(b) Section 7 of this chapter applies to all superior courts.

Sec. 2. (a) If a superior court consists of more than one (1)

judge, the court shall hold general and special terms.

(b) A general term of the superior court may be held by a majority of the judges and a special term by any one (1) or more of the judges. General and special terms may be held at the same time, as the judges of the court may direct. If a general or special term is held, the terms shall be taken and considered to have been held by the authority and direction of the judges.

Sec. 3. (a) The superior court, at general or special term, may do the following:

(1) Issue and direct all process to courts of inferior jurisdiction, and to corporations and individuals, which shall be necessary in exercising its jurisdiction, and for the regular execution of the law.

(2) Make all proper judgments, sentences, decrees, orders, and injunctions.

(3) Issue all process and executions.

(4) Do other acts necessary to carry into effect subdivisions (1) through (3) in conformity with the Constitution of the State of Indiana and laws of Indiana.

(b) The court shall, at times as the business of the court may require, meet in general term, and may, at any time, make a distribution and redistribution of the business of the court to special term, as it considers proper.

(c) Each judge holding court at special term shall transact the business assigned to the judge. However, the judge may call one (1) or more of the other judges of the court to sit with the judge in special term to consider any matter pending before the judge.

(d) The court, at special term, may hear and dispose of business distributed to it by the general term. The court may, at special or general term:

(1) vacate or modify its own judgments or orders, rendered at either special or general term; and

(2) enter judgments by confession, as is vested by law in circuit courts.

Sec. 4. The judges of the superior court, individually or collectively, may do the following:

(1) Grant restraining orders and injunctions.

(2) Issue writs of habeas corpus, and of mandate and prohibition.

(3) Appoint receivers, master commissioners, and commissioners to convey real property.

(4) Grant commissions for the examination of witnesses.

(5) Appoint other officers necessary to facilitate and transact the business of the court as is conferred on judges of circuit courts.

Sec. 5. When any reason for a change of venue is shown to exist from any of the judges, the remaining judge or judges alone shall act. However, when all the judges are incompetent to act, the case shall be transferred to the circuit court of the county.

Sec. 6. (a) In all cases where a person has the right of appeal from the circuit to the supreme court or court of appeals, an appeal may be taken directly to the supreme court or court of appeals from any order or judgment of the superior court.

(b) Appeals described in subsection (a) are governed by the law regulating appeals from the circuit court to the supreme court or court of appeals.

(c) Appeals from the special to the general term are abolished.

Sec. 7. To be eligible to hold office as a judge of a superior court, a person must be a resident of the judicial circuit that the judge serves.

Chapter 6. Transfer of Action to Circuit Court

Sec. 1. In all counties that contain circuit and superior courts, the judge of the superior court may, upon the judge's own motion, transfer any case filed and docketed in the superior court to the circuit court to be redocketed and disposed of as if originally filed with the circuit court if:

(1) any reason for change of venue from the judge of the superior court is shown to exist as provided by law;

(2) more cases are filed in the superior court during any term of the superior court than can be disposed of with expedition; and

(3) in the opinion of the superior court, an early disposition of the case is required.

Sec. 2. In all counties with circuit and superior courts, the judge of the circuit court may, with the consent of the judge of the superior court, transfer any action, cause, or proceedings filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or

proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court, provided the action, cause, or proceeding could have been originally filed and docketed in the superior court, in any of the following instances:

(1) Whenever more cases are filed in the circuit court during any year than can be disposed of with expedition.

(2) In all other cases where, in the opinion of the circuit court judge, an early disposition of the case is required.

Sec. 3. In all counties with circuit and superior courts, the judge of the superior court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceedings filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the circuit court, in any of the following instances:

(1) Whenever more cases are filed in the superior court during any year than can be disposed of with expedition.

(2) In all other cases where, in the opinion of the superior court judge, an early disposition of the case is required.

Sec. 4. Whenever a special judge has been designated in any action, cause, or proceeding, and the special judge is the elected qualified and acting judge of a circuit, superior, or probate court in the county having jurisdiction of the subject matter of the action, cause, or proceeding, the regular judge of the court in which the action, cause, or proceeding is pending may, after the designation of a special judge, with the consent of the special judge, transfer the action, cause, or proceeding to the court presided over by the special judge by transferring all original papers and instruments filed in the action, cause, or proceeding, without further transcript to be redocketed and disposed of as if originally filed with the court to which the action, cause, or proceeding is transferred.

SECTION 9. IC 33-30 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 30. COUNTY COURTS

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Chief justice" means the chief justice of Indiana.

Sec. 3. "Judge" means a county court judge or, where the context requires, a judge of a unified superior court.

Sec. 4. "Temporary transfer" means an assignment for more than the duration of a six (6) year term.

Chapter 2. Establishment and Organization

Sec. 1. A county court is established in each county, except in a county for which:

- (1) IC 33-33 provides a small claims docket of the circuit court;
- (2) IC 33-33 provides a small claims docket of the superior court; or
- (3) IC 33-34 provides a small claims court.

Sec. 2. Notwithstanding section 1 of this chapter, Lake County does not have a county court. However, the county division of the superior court of Lake County shall maintain the dockets described in IC 33-30-5-1.

Sec. 3. Each county court has one (1) judge except as otherwise provided in this chapter.

Sec. 4. The county court of Madison County has two (2) judges.

Sec. 5. There must be one (1) division for each judge of the county court. Each division must include the entire county or counties the judge normally serves.

Sec. 6. (a) The judge shall formulate an organizational plan for the efficient operation of the judge's court. The organizational plan must include provisions to facilitate the speedy disposition of cases involving motorists charged with the violation of state traffic laws.

(b) The organizational plan must provide for a system of posting bond in traffic cases by designating the places where bond may be posted with due consideration given to factors of convenience to both law enforcement officers and alleged offenders.

(c) To facilitate the speedy disposition of cases involving traffic violations, the organizational plan must provide for a standard traffic violations bureau for the county court under IC 34-28-5-7 through IC 34-28-5-10. The plan must ensure that the defendant is advised of all rights. A judge serving more than one (1) county shall establish a traffic violations bureau in each county.

Sec. 7. (a) A judge of a county court may adopt rules and regulations for conducting the business of the court.

(b) The judge of the county court may do the following:

- (1)** Perform marriages.
- (2)** Issue warrants.
- (3)** Issue and direct a process necessary in exercising the court's jurisdiction.
- (4)** Make proper judgments, sentences, decrees, and orders.
- (5)** Issue process.
- (6)** Perform acts necessary and proper to carry out the provisions of this article.

(c) The judge of the county court has the same power as the judge of a circuit court concerning the following:

- (1)** The attendance of witnesses.
- (2)** The punishment of contempts and the enforcement of the judge's orders.
- (3)** The administration of oaths.
- (4)** The issuance of necessary certificates for the authentication of the records and proceedings of the court.

Sec. 8. (a) A county court shall meet in continuous session.

(b) A vacation of one (1) month per year shall be provided for the judge of the county court. The judge of the county court shall coordinate the judge's schedule so that great inconvenience is not caused to a person seeking the services of the court during the vacation period.

(c) The judge may appoint a judge pro tem to handle the court's judicial business during the judge's vacation or for any period the judge considers necessary. The sitting of a judge pro tem may not become a standard practice of the court.

Sec. 9. A county court shall have a seal consisting of a circular disk containing the words, " _____ (insert name of county) County Court of the State of Indiana". If a judge normally serves more than one (1) county, there shall be a separate seal for each county.

Chapter 3. Judges

Sec. 1. A person may not run for judge of a county court if the person will be at least seventy (70) years of age before the person begins the person's term of office. The chief justice of the state may authorize a retired judge due to age to perform temporary judicial

duties in a county court.

Sec. 2. To be eligible to serve as a county court judge, a person must:

- (1) meet the qualifications prescribed by IC 3-8-1-18; and
- (2) be a resident of the county that the county court judge serves.

Sec. 3. (a) The number of county court judges required by IC 33-30-2 shall be elected under IC 3-10-2-11 by the voters of each county or by the voters of two (2) counties if a judge is required to serve two (2) counties. The term of office of a county court judge is six (6) years, beginning on January 1 after election and continuing until a successor is elected and qualified.

(b) In any county for which IC 33-30-2 provides more than one (1) judge of the county court, the county election board shall assign a number to each division of the court. After the assignment, any candidate for judge of the county court must file a declaration of candidacy under IC 3-8-2 or petition of nomination under IC 3-8-6 for one (1) specified division of the court. Each division of the court shall be listed separately on the election ballot in the form prescribed by IC 3-10-1-19 and IC 3-11-2.

Sec. 4. A judge of a county court:

- (1) shall devote full time to the judge's judicial duties; and
- (2) may not engage in the practice of law.

Sec. 5. If a county court judge serves two (2) counties that coincide with the boundaries of a joint judicial circuit, the county court judge shall coordinate the judge's schedule with that of the circuit court judge to ensure, as far as practicable, the location of a full-time judge in each county.

Sec. 6. The judges of a county court shall be members of the judicial conference of Indiana established by IC 33-38-9-3.

Sec. 7. Each judge of a county court shall be a participant in the judges' retirement fund under IC 33-38.

Sec. 8. A judge is disqualified from acting as a judicial officer, without loss of salary, while there is pending:

- (1) an indictment or information charging the judge in any court in the United States with a crime punishable as a felony under the laws of the state or the United States; or
- (2) a recommendation to the supreme court by the commission on judicial qualifications for the judge's removal

or retirement.

Sec. 9. (a) The commission on judicial qualifications shall serve as the commission on judicial qualifications for judges of the county court.

(b) The procedures and practices provided by IC 33-38-13 for the organization and operation of the commission on judicial qualifications shall govern the practice and procedure in all proceedings brought under this section.

Sec. 10. (a) On recommendation of the commission on judicial qualifications or on a supreme court motion, the supreme court may suspend a judge from office without salary when, in any court in the United States, the judge:

- (1)** pleads guilty to;
- (2)** pleads no contest to; or
- (3)** is found guilty of;

a crime punishable as a felony under the laws of a state or the United States or any crime that involves moral turpitude under the law.

(b) If the judge's conviction is reversed, the suspension terminates, and the judge shall be paid the judge's salary for the period of suspension.

(c) If the judge is suspended and the judge's conviction becomes final, the supreme court shall remove the judge from office.

Sec. 11. (a) On recommendation of the commission on judicial qualifications, the supreme court may:

- (1)** retire a judge for a disability that seriously interferes with the performance of the judge's duties and is or is likely to become permanent; and
- (2)** censure or remove a judge for action occurring not more than six (6) years before the commencement of the judge's current term when the action constitutes:

- (A)** willful misconduct in office;
- (B)** willful and persistent failure to perform the judge's duties;
- (C)** habitual intemperance; or
- (D)** conduct prejudicial to the administration of justice that brings that judicial office into disrepute.

(b) Upon receipt by the supreme court of a recommendation, the supreme court shall hold a hearing and make a required

determination. The judge is entitled to be present at the hearing.

(c) A judge retired by the supreme court is considered to have retired voluntarily.

(d) A judge removed by the supreme court is ineligible for judicial office and, pending further order of the court, is suspended from practicing law in Indiana. A judge removed forfeits the judge's interest in the judges' retirement system or to an annuity under that law, except for the right of return of contributions made by the judge, plus accrued interest.

Sec. 12. (a) The judges of the Floyd circuit court, Floyd superior court, and Floyd county court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit, superior, and county courts.

(b) The magistrate continues in office until removed by the judges of the Floyd circuit, superior, and county courts.

Chapter 4. Jurisdiction

Sec. 1. (a) A county court has the following jurisdiction:

(1) Original and concurrent jurisdiction in civil cases founded on contract or tort in which the debt or damage claimed is not more than ten thousand dollars (\$10,000).

(2) Original and concurrent jurisdiction in possessory actions between a landlord and tenant and original exclusive jurisdiction in actions for the possession of property where the value of the property sought to be recovered is not more than ten thousand dollars (\$10,000).

(3) Original and concurrent jurisdiction of a case involving a Class D felony, a misdemeanor, or an infraction case.

(4) Original and concurrent jurisdiction of a case involving the violation of a:

(A) city;

(B) town; or

(C) municipal corporation;

ordinance.

(5) Original and concurrent jurisdiction of a case involving the violation of a traffic ordinance.

(b) If a defendant is charged with a crime outside the jurisdiction of the county court, the court may hold the defendant to bail in an equal amount of either cash or surety.

Sec. 2. (a) The county court does not have jurisdiction in the

following:

- (1) Actions seeking injunctive relief or involving partition of real estate.
- (2) Actions to declare or enforce any lien.
- (3) Matters pertaining to paternity, juvenile, or probate.
- (4) Cases where the appointment of a receiver is asked.
- (5) Suits for dissolution of marriage.
- (b) The county court has jurisdiction to conduct preliminary hearings in felony cases.

Chapter 5. Practice and Procedure

Sec. 1. (a) Each judge of a county court shall maintain the following dockets:

- (1) An offenses and violations docket.
- (2) A small claims docket for the following:
 - (A) All cases where the amount sought or value of the property sought to be recovered is not more than three thousand dollars (\$3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of the claim that is over three thousand dollars (\$3,000) to bring the claim within the jurisdiction of the small claims docket.
 - (B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed is not more than three thousand dollars (\$3,000).
 - (C) Emergency possessory actions between a landlord and tenant under IC 32-31-4.

- (3) A plenary docket for all other civil cases.

(b) This section expires July 1, 2005.

Sec. 2. (a) This section applies after June 30, 2005.

(b) Each judge of a county court shall maintain the following dockets:

- (1) An offenses and violations docket.
- (2) A small claims docket for the following:
 - (A) All cases where the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of the claim that is over six thousand dollars (\$6,000) to bring the claim within the jurisdiction of the

small claims docket.

(B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed is not more than six thousand dollars (\$6,000).

(C) Emergency possessory actions between a landlord and tenant under IC 32-31-4.

(3) A plenary docket for all other civil cases.

Sec. 3. Except as otherwise provided in this article, the practice and procedure in a county court shall be as provided by statute and Indiana Rules of Procedure as adopted by the supreme court. However, in cases of the small claims docket, the following exceptions apply:

(1) Defendants are considered to have complied with the statute and rule requiring the filing of an answer upon entering an appearance personally or by attorney. The appearance is considered a general denial and preserves all defenses and compulsory counterclaims which may then be presented at the trial of the cause.

(2) If, at the trial of the cause, the court determines that the complaint is so vague and ambiguous that:

(A) the defendant was unable to determine the nature of the plaintiff's claim; or

(B) the plaintiff is surprised by the defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(3) The trial must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law. The trial may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence except provisions relating to privileged communications and offers of compromise.

Sec. 4. Except as provided by statute or by rules of the supreme court, there is not a right to a change of venue from the county in cases in the county court.

Sec. 5. (a) The filing of a small claim in a county court is deemed a waiver of trial by jury.

(b) A defendant may, not later than ten (10) days following service of the complaint, make demand for a trial by jury by

affidavit:

(1) stating that there are questions of fact requiring a trial by jury; and

(2) specifying the facts and that the demand is intended in good faith.

(c) The notice of claim or an additional sheet served with the notice of claim on the defendant must clearly state:

(1) the defendant's right to a jury trial; and

(2) the ten (10) day period in which to file for a jury trial.

(d) Upon the deposit of seventy dollars (\$70) in the small claims docket by the defendant, the court shall transfer the claim to the plenary docket. Upon transfer, the claim shall lose the claim's status as a small claim.

Sec. 6. With respect to jury trials for criminal cases in a county court, the jury must consist of the number of qualified jurors required by IC 35-37-1-1. When a jury trial is demanded, the county court may call a jury from the list provided and used by the circuit court.

Sec. 7. (a) If a court or jury finds against the defendant, the court shall specify the terms and conditions for satisfaction of the judgment. The judgment may be paid in installments.

(b) The judge may stay the issuance of execution and other supplementary process during compliance. The stay may be modified or vacated by the court.

Sec. 8. A county court is a court of record.

Sec. 9. (a) All judgments rendered in civil actions must be properly recorded in the judgment docket book of a county court. Judgments are liens on real estate when the judgment is entered in the county court judgment docket in the same manner as judgments in a court of general jurisdiction become liens on real estate under IC 34-55-9.

(b) The clerk of the county court shall keep a judgment docket in which judgments must be entered and properly indexed in the name of the judgment defendant as judgments of circuit courts are entered and indexed.

Sec. 10. An appeal of a judgment from a county court must be taken:

(1) in the same manner and under the same rules and statutes; and

(2) with the same assessment of costs;
as cases appealed from a circuit court.

Chapter 6. Transfer of Cases and Judges

Sec. 1. (a) A judge of a circuit or superior court may order a case filed in the judge's court to be transferred to the county court and entered in the appropriate docket if:

- (1) the county court has jurisdiction of the case concurrent with the circuit or superior court; and
- (2) the county court judge consents to the transfer.

(b) A judge of the county court may order a case filed in the plenary or criminal docket of the county court to be transferred to the circuit or superior court and entered in the appropriate docket if:

- (1) the circuit or superior court has jurisdiction of the case concurrent with the county court; and
- (2) the county court judge consents to the transfer.

Sec. 2. (a) The county clerk shall prepare, and the county court judge shall certify and file, quarterly reports on March 31, June 30, September 30, and December 31 each year with the chief justice. The reports must include:

- (1) the gross case filings, terminations, and cases remaining open, broken down by the type of case; and
- (2) the number of jury trials, broken down by the type of case.

(b) The reports must be:

- (1) in a form prescribed by; and
- (2) distributed by;

the supreme court.

(c) Noncompliance with this section is grounds for censure or removal of the judge under IC 33-30-3-11.

Sec. 3. Based on the quarterly reports concerning the volume and nature of judicial workload prepared under section 2 of this chapter, the supreme court shall consider the temporary transfer of any judge of a county court to another county court if the temporary transfer is determined to be beneficial to facilitate the judicial work of the court to which the judge is transferred without placing an undue burden on the court from which the judge is transferred. However, a judge may not be temporarily transferred to a court in another county that, at the court's nearest point, is more than forty (40) miles from the county seat that the judge

normally serves unless the judge consents to the transfer.

Sec. 4. Any judge transferred to a court in another county shall be paid travel and other necessary expenses by the county to which the judge is transferred. An allowance for expenses shall be certified by the chief justice in duplicate to the auditor of the county.

Chapter 7. County Responsibilities

Sec. 1. (a) The board of county commissioners of each county shall provide a suitable place for the holding of court for each judge of the county court sitting in the board's county. The county may rent suitable facilities from other governmental units.

(b) A judge may conduct hearings and hold court in cities or towns outside the place provided by the board of county commissioners if the judge considers it necessary for the convenience of the citizens of the district.

(c) Each judge of the county court shall provide by rule for an evening session to be held one (1) time each week in each county served by the court. Additional sessions in the evening and on holidays shall be held as necessary to ensure the just, speedy, and inexpensive determination of every action.

Sec. 2. (a) The clerk and sheriff of the county shall serve as the clerk and sheriff of the county court. The clerk and sheriff shall attend the court and discharge all duties pertaining to the respective offices as required by law in circuit courts.

(b) The clerk shall permit cases to be filed in any normal weekday whether or not the county court judge is sitting in the county on that day.

(c) All instruments requiring the signature of the clerk in the county court's business shall be signed as "Clerk of the _____ County Court."

(d) The judge of the county court shall appoint a bailiff and a reporter and other employees necessary to carry out the business of the court.

Sec. 3. (a) The county shall furnish all supplies, including the following:

- (1)** Blanks, forms, and papers of every kind required for use in all cases.
- (2)** Furniture.
- (3)** Books.

(4) Papers.

(5) Stationery.

(6) Recording devices.

(7) Other equipment and supplies of every character necessary for the keeping of the records of the proceedings and maintaining of the county court.

(b) The county shall provide a suitable place for the holding of court for the judge of the county court sitting in the county. The county shall pay the salary of the:

(1) deputy clerk;

(2) county police officer;

(3) bailiff; and

(4) reporter;

assigned to the county court as prescribed by law.

Sec. 4. (a) The salary of a county court judge who serves more than one (1) county shall be paid by the respective counties in equal amounts.

(b) The salary of every county court judge, as set by IC 33-38-5, shall be paid in equal monthly installments.

SECTION 10. IC 33-31 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 31. PROBATE COURTS

Chapter 1. St. Joseph County Probate Court

Sec. 1. There is established a probate court in St. Joseph County known as the St. Joseph Probate Court. The court shall be presided over by one (1) judge to be chosen as provided in this chapter.

Sec. 2. The court:

(1) is a court of record; and

(2) shall have a seal and device, as the judge may choose, with the name of the county on its face. A description and impression of the seal and device shall be spread on the order book of the court.

Sec. 3. (a) The court consists of one (1) judge, to be elected by the legal voters of the county for a term of six (6) years:

(1) beginning on the first day of January following the election of the judge; and

(2) continuing until the successor of the judge is elected and qualified.

The election must occur at the time of the general election every six (6) years.

(b) The judge shall be commissioned by the governor in the same manner as judges of the circuit court. Vacancies occurring in the office of judge of the probate court shall be filled by appointment by the governor, in the same manner as vacancies in the office of judge of the circuit court.

(c) To be eligible to hold office as judge of the court, a person must be a resident of St. Joseph County.

Sec. 4. The clerk of the circuit court and the sheriff of the county where the court is organized shall be the clerk and sheriff of the probate court. The clerk and the sheriff are each entitled to fees for their services as are allowed in the circuit court for similar services.

Sec. 5. (a) The clerk and sheriff shall attend the court and discharge all the duties pertaining to their respective offices required by law in the circuit court.

(b) All laws:

(1) prescribing the duties and liability of the officers;

(2) prescribing the mode of proceeding against either or both of the officers for any neglect of official duty; and

(3) allowing fees and providing for the collection of the fees; in the circuit court, extend to the probate court, as applicable.

Sec. 6. The probate court shall hold sessions at the courthouse of the county, or at any other convenient place as the court designates in the county. The county commissioners shall provide suitable quarters for the sessions.

Sec. 7. The judge of the court may adjourn the same on any day previous to the expiration of the time for which it may be held, and also from any one (1) day in the term over to any other day in the same term, if in the opinion of the judge, the business of the court will allow.

Sec. 8. When a trial is begun and in progress at the time when by law, the term of the court would expire, the term shall be extended until the close of the trial.

Sec. 9. (a) The probate court in the county for which it is organized has original, concurrent jurisdiction with the superior courts of the county in all matters pertaining to the following:

(1) The probate of wills.

(2) Proceedings to resist probate of wills.

(3) Proceedings to contest wills.

(4) The appointment of guardians, assignees, executors, administrators, and trustees.

(5) The administration and settlement of estates of protected persons (as defined in IC 29-3-1-13) and deceased persons.

(6) The administration of trusts, assignments, adoption proceedings, and surviving partnerships.

(7) Any other probate matters.

(b) The probate court has exclusive juvenile jurisdiction in St. Joseph County.

(c) The probate court does not have jurisdiction in civil actions.

Sec. 10. The probate court has jurisdiction and shall proceed in the probate and juvenile causes. All proceedings in probate and juvenile causes in the court shall be conducted as proceedings are required, by law, to be conducted in the circuit court in the counties not having a probate court.

Sec. 11. A judge of the probate court may act as judge of any circuit court or superior court upon the trial of any cause or proceeding, when:

(1) the judge of the circuit or superior court may be incompetent to try the cause; or

(2) a change of venue is granted for objection to the judge.

Sec. 12. (a) If the judge of the probate court is unable to attend and preside at any term of the court, or during any part of a term, the judge may appoint, in writing, an attorney eligible to the office of the judge, at the term or part of the term.

(b) A written appointment shall be entered of record in the court.

(c) If the appointee is not a judge of a court of record, the appointee shall take the same oath required by law of judges of the probate court.

(d) The appointee has the same power and authority during the continuance of the appointment of the judge as a regularly elected judge of the court.

Sec. 13. (a) When a person is appointed judge pro tem under this chapter, the appointee is entitled to ten dollars (\$10) for each day the appointee serves as the judge to be paid:

(1) out of the county treasury of the county where the probate

court is held;

(2) upon the warrant of the county auditor; and

(3) based upon the filing of a claim approved by the judge of the court.

(b) Any amount more than five hundred dollars (\$500) allowed to a judge pro tem during any year shall be deducted by the board of county commissioners from the regular annual salary of the judge of the probate court making the appointment unless the judge pro tem is appointed on account of change of venue, relationship, interest as former counsel, or absence of judge in case of serious sickness of the judge or a family member of the judge.

Sec. 14. The process of the court must:

(1) have the seal affixed;

(2) be attested, directed, served, and returned; and

(3) be in form as is or may be provided for process issuing from the circuit court.

Sec. 15. (a) The probate court is a court of record and of general jurisdiction.

(b) The court's judgments, decrees, orders, and proceedings:

(1) have the same force and effect as those of the circuit court; and

(2) shall be enforced in the same manner.

Sec. 16. (a) The judge of the court:

(1) may make and adopt rules and regulations for conducting the business of the court, not repugnant to Indiana law; and

(2) has all the power incident to a court of record and of general original jurisdiction, in relation to the attendance of witnesses, the punishment of contempts, and enforcing its orders.

(b) The judge of the court may:

(1) administer oaths;

(2) take and certify acknowledgments of deeds; and

(3) give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 17. Under the direction of the judge, the clerk shall provide for court order books, judgment dockets, execution dockets, fee books, and other books, records, and supplies as may be necessary. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 18. The judge of the court has the same power as the judge of the circuit court of the county to:

- (1) grant restraining orders and injunctions;
- (2) issue writs of habeas corpus, and of mandate and prohibition; and
- (3) appoint receivers, master commissioners for the examination of witnesses, and other officers necessary to facilitate and transact the business of the court.

Sec. 19. A party may appeal to the supreme court or the court of appeals from the order or judgment of the probate court in any case in which an appeal may be had from an order or judgment of the circuit court. The appeal shall be regulated by the law regulating appeals from the circuit court to the court of appeals and the supreme court, so far as applicable. An appeal may also be taken to the court of appeals and the supreme court in the same manner and in like cases as from circuit courts.

Sec. 20. (a) The same docket fees shall be taxed in the court as are provided by law to be taxed in the circuit court.

(b) The fees, when collected, shall be paid by the clerk to the treasurer of the county to be applied in reimbursing the county for expenses of the court.

Sec. 21. (a) The salary of the judge of the probate court shall be the same as that of the judge of the circuit court of the county. The salary of the judge and the compensation of a judge pro tempore shall be paid in the same manner and from the same sources as the judge of the circuit court or judges pro tempore of the court.

(b) A full-time judge of a probate court may not be paid compensation for serving as a special judge, except for reasonable expenses for meals, lodging, travel, and other incidental expenses approved by the executive director of the division of state court administration.

Sec. 22. The probate court may appoint a chief clerk and other employees as the judge considers necessary whose salaries shall be fixed by the judge and be paid out of the county treasury.

Sec. 23. The probate judge shall appoint the probation officers authorized by law for cases under the court's juvenile jurisdiction. The probation officers shall perform the same duties and receive the same compensation as is provided by law.

Sec. 24. In addition to any appointments made by the judge of

the St. Joseph probate court under IC 31-31-3, the judge of the St. Joseph probate court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate may exercise:

- (1) probate jurisdiction under section 9(a) of this chapter; and
 - (2) juvenile jurisdiction under section 9(b) of this chapter;
- and continues in office until removed by the judge.

SECTION 11. IC 33-32 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 32. CIRCUIT COURT CLERKS

Chapter 1. Definitions

Sec. 1. As used in this article, "clerk" means a clerk of the circuit court elected and qualified under Article 6, Sections 2 and 4 of the Constitution of the State of Indiana.

Chapter 2. General Powers and Duties

Sec. 1. In a county having one (1) or more superior courts or a county, municipal, or probate court, the clerk shall serve as clerk of the superior, county, and probate court as well as clerk of the circuit court.

Sec. 2. A clerk of the circuit court shall be elected under IC 3-10-2-13 by the voters of each county. The term of office of a clerk is four (4) years, continuing until a successor is elected and qualified.

Sec. 3. In the manner prescribed by IC 5-4-1, the clerk of each county shall execute a bond conditioned upon:

- (1) the faithful discharge of the duties of the clerk's office; and
- (2) the proper payment of all money received by the office of the clerk.

Sec. 4. (a) The board of county commissioners shall provide the clerk with an office at the county seat in a building provided for that purpose.

(b) The clerk shall keep the office open on every day of the year except on Sundays and legal holidays. However, the clerk:

- (1) shall keep the office of the clerk open on those days and times necessary for the proper administration of the election statutes; and
- (2) may close the office on those days that the judge of the circuit court orders the court closed in accordance with the custom and practice of the county.

(c) Any legal action required to be taken in the office of the clerk during the time the office is closed under this section may be taken on the next following day the office is open.

Sec. 5. A clerk may administer all oaths.

Sec. 6. A clerk shall carry out the duties prescribed for a clerk in IC 3 concerning elections.

Sec. 7. A clerk shall post in a conspicuous place in the clerk's office a table of the clerk's fees. If a clerk fails to post a table of fees, a clerk may not demand or receive fees for services rendered.

Sec. 8. The clerk may not become the purchaser of any judgment, decree, or allowance of any court of which the clerk is an officer. All these purchases are void as to the purchaser.

Chapter 3. Record Keeping Duties

Sec. 1. (a) The clerk shall endorse the time of filing on each writing required to be filed in the office of the clerk.

(b) The clerk shall carefully preserve in the office of the clerk all records and writings pertaining to the clerk's official duties.

(c) The clerk shall procure, at the expense of the county, all necessary judges' appearance, bar, judgment, and execution dockets, order books, and final record books.

(d) The clerk shall:

(1) attend, in person or by deputy, the circuit court of the county; and

(2) enter in proper record books all orders, judgments, and decrees of the court.

(e) Not more than fifteen (15) days after the cases are finally determined, the clerk shall enter in final record books a complete record of:

(1) all cases involving the title to land;

(2) all criminal cases in which the punishment is death or imprisonment, except where a nolle prosequi is entered or an acquittal is had; and

(3) all other cases, at the request of either party and upon payment of the costs.

Sec. 2. (a) The clerk shall keep a circuit court judgment docket.

(b) Upon the filing in the office of the clerk a statement or transcript of any judgment for the recovery of money or costs, the clerk shall enter, and index in alphabetical order, in this judgment docket a statement of the judgment showing the following:

- (1) The names of all the parties.
- (2) The name of the court.
- (3) The number of the cause.
- (4) The book and page of the record in which the judgment is recorded.
- (5) The date the judgment is entered and indexed.
- (6) The date of the rendition of judgment.
- (7) The amount of the judgment and the amount of costs.

(c) If a judgment is against several persons, the statement required to be entered under subsection (b) shall be repeated under the name of each judgment debtor in alphabetical order.

(d) A person interested in any judgment for money or costs that has been rendered by any state court, or by any federal court of general original jurisdiction sitting in Indiana, may have the judgment entered upon the circuit court judgment docket by filing with the clerk:

- (1) a statement setting forth the facts required under subsection (b); or
- (2) a transcript of the judgment;

certified under the hand and seal of the court that rendered the judgment.

Sec. 3. The circuit court judgment docket is a public record that is open during the usual hours of transacting business for examination by any person.

Sec. 4. A clerk shall:

- (1) enter a judgment or recognizance not more than fifteen (15) days after its rendition; or
- (2) cause a release of judgment to be entered on the judgment docket not more than fifteen (15) days after satisfaction of the judgment.

Sec. 5. (a) The clerk shall keep an execution docket.

(b) The clerk shall enter all executions on the execution docket as they are issued by the clerk, specifying in proper columns the following information:

- (1) The names of the parties.
- (2) The amount of the judgment and the interest due upon the issuing of the execution.
- (3) The costs.

The clerk shall also prepare an additional column in which the

clerk shall enter the return of the sheriff.

(c) The execution docket entries may be inspected and copied under IC 5-14-3-3.

Sec. 6. (a) Before the twenty-fifth day of each month, the clerk shall prepare a report showing as of the close of business on the last day of the preceding month the following information:

- (1) The balance, if any, of fees payable to the county.
- (2) Fees collected for fish and game licenses.
- (3) Trust funds held, including payments collected for support.
- (4) The total of the balances of all fees and funds.
- (5) The record balance of money in each depository at the end of the month.
- (6) The cash in the office at the close of the last day of the month.
- (7) Any other items for which the clerk of the circuit court is entitled to credit.
- (8) The total amount of cash in each depository at the close of business on the last day of the month.
- (9) The total of checks issued against each depository that are outstanding at the end of the month and unpaid by the depositories.

(b) The clerk shall:

- (1) retain one (1) copy as a public record of the clerk's office; and
- (2) file three (3) copies with the county auditor, who shall:
 - (A) present one (1) copy to the board of commissioners of the county at its next regular meeting; and
 - (B) transmit one (1) copy to the state board of accounts.

Each copy of the report must be verified by the certification of the clerk. The clerk shall file the original with the county auditor, who shall file it with the records of the county board of finance.

(c) The state board of accounts shall prescribe forms for the clerk's monthly reports.

Sec. 7. (a) The clerk shall keep a register of witness fees and other court fees.

(b) When the clerk receives money in payment of court fees or fees for a witness or any other person, the clerk shall make an entry into the register recording the receipt of the payment.

(c) The register must contain the following information:

- (1) The names, in alphabetical order, of persons for whom payment has been received.**
- (2) The cause for which the fee is paid.**
- (3) In which fee book and on which page the fee is taxed.**
- (4) The amount paid.**
- (5) When the fee was paid in and when it was paid out.**

(d) The register must be open for inspection at all times in a conspicuous place in the clerk's office.

Sec. 8. At the end of the clerk's term, the clerk shall deliver to the clerk's successor all the records, books, and papers belonging to the clerk's office.

Sec. 9. The county council shall appropriate reasonable sums to the clerk for necessary blank books and stationery.

Chapter 4. Child Support Payments

Sec. 1. As used in this chapter, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, a telephone, or a computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Sec. 2. As used in this chapter, "Indiana support enforcement tracking system (ISETS)" refers to the statewide automated system for the collection, disbursement, and distribution of child support payments established by the division of family and children.

Sec. 3. The clerk may receive funds:

- (1) in payment of judgments; and**
- (2) ordered to be paid into the court by the judge.**

Sec. 4. Except as provided in sections 5 and 8 of this chapter, the clerk is liable, with the clerk's sureties, on the clerk's official bond for all funds received to any person who is entitled to demand and receive those funds from the clerk.

Sec. 5. The clerk is not personally liable or liable in the clerk's official capacity on the clerk's official bond for funds received if the clerk:

- (1) through error or in accordance with the best information available to the clerk, disbursed the funds to a person the clerk reasonably believed to be entitled to receive the funds and to comply with a:**

- (A) child support order; or
- (B) garnishment order;
- (2) inappropriately disbursed or misapplied child support funds, arising without the knowledge or approval of the clerk, that resulted from:
 - (A) an action by an employee of, or a consultant to, the division of family and children;
 - (B) an ISETS technological error; or
 - (C) information generated by ISETS;
- (3) disbursed funds that the clerk reasonably believed were available for disbursement but that were not actually available for disbursement;
- (4) disbursed child support funds paid to the clerk by a personal check that was later dishonored by a financial institution; and
- (5) did not commit a criminal offense as a part of the disbursement.

Sec. 6. If the clerk improperly disburses funds in the manner described by section 5 of this chapter, the clerk shall do the following:

- (1) Deduct the amount of funds improperly disbursed from fees collected under IC 33-37-5-6.
- (2) Credit each account from which funds were improperly disbursed with the amount of funds improperly disbursed under section 5 of this chapter.
- (3) Notify the prosecuting attorney of the county of:
 - (A) the amount of the improper disbursement;
 - (B) the person from whom the amount of the improper disbursement should be collected; and
 - (C) any other information to assist the prosecuting attorney to collect the amount of the improper disbursement.
- (4) Record each action taken under this subsection on a form prescribed by the state board of accounts.

Sec. 7. If:

- (1) fees collected under IC 33-37-5-6 are credited to an account under section 6(2) of this chapter because a check or money order was dishonored by a financial institution or was the subject of a stop payment order; and

(2) a person subsequently pays to the clerk all or part of the amount of the check or money order that was dishonored or the subject of a stop payment order;
the clerk must reimburse the account containing fees collected under IC 33-37-5-6 using the amount the person paid to the clerk.

Sec. 8. The clerk is not personally liable for the amount of a dishonored check, for penalties assessed against a dishonored check, or for financial institution charges relating to a dishonored check, if:

- (1) the check was tendered to the clerk for the payment of a:
 - (A) fee;
 - (B) court ordered payment; or
 - (C) license; and
- (2) the acceptance of the check was not an act or omission constituting gross negligence or an intentional disregard of the responsibilities of the office of clerk.

Sec. 9. (a) The clerk may provide for the:

- (1) payment; and
- (2) disbursement;

of child support payments by electronic funds transfer.

(b) A person may request the clerk in writing to allow the person to:

- (1) pay child support to the clerk; or
- (2) receive child support payment distributions from the clerk;

by means of an electronic funds transfer.

(c) A person's written request must authorize in advance the electronic funds transfer. The person's written authorization must designate a financial institution and an account number. The person's authorization remains in effect until the person revokes it in writing.

(d) The clerk may not make an electronic funds transfer under this section except in accordance with procedures adopted by the state board of accounts.

Chapter 5. Collection of Fees; Marriage Licenses, Junk Dealing, and Distress Sales

Sec. 1. (a) For issuing a marriage license under IC 31-11-4, the clerk shall collect a fee of ten dollars (\$10). The clerk shall pay these fees to the treasurer of state, who shall deposit the money in

the state user fee fund established by IC 33-37-9-2.

(b) For issuing a marriage certificate under IC 31-11-4, the clerk shall collect the following fee:

- (1) Eight dollars (\$8), if at least one (1) of the individuals is a resident of Indiana.
- (2) Fifty dollars (\$50), if neither of the individuals is a resident of Indiana.

When collected, these fees shall be deposited in the general fund of the county.

Sec. 2. For issuing a license to hold a distress sale under IC 25-18-1-6, the clerk shall collect the following fee:

- (1) Forty dollars (\$40) if the value of the inventory is not more than twenty-five thousand dollars (\$25,000).
- (2) Sixty-five dollars (\$65) if the value of the inventory is more than twenty-five thousand dollars (\$25,000) but not more than fifty thousand dollars (\$50,000).
- (3) One hundred dollars (\$100) if the value of the inventory is more than fifty thousand dollars (\$50,000) but not more than seventy-five thousand dollars (\$75,000).
- (4) One hundred fifty dollars (\$150) if the value of the inventory is more than seventy-five thousand dollars (\$75,000).

SECTION 12. IC 33-33 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 33. COURT SYSTEM ORGANIZATION IN EACH COUNTY

Chapter 1. Adams County

Sec. 1. Adams County constitutes the twenty-sixth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Adams superior court.

(b) The Adams superior court is a standard superior court as described in IC 33-29-1.

(c) Adams County comprises the judicial district of the court.

Sec. 3. The Adams superior court has one (1) judge who shall hold sessions in the Adams County courthouse in Decatur, or in other places in the county as the board of county commissioners of Adams County may provide.

Sec. 4. The Adams superior court has the same jurisdiction as the Adams circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Adams superior court has a standard small claims and misdemeanor division.

Chapter 2. Allen County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Allen County constitutes the thirty-eighth judicial circuit.

Sec. 3. The judge of the Allen circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

Sec. 4. (a) The Allen circuit court has concurrent jurisdiction with the Allen superior court concerning paternity actions.

(b) In addition to the magistrate appointed under section 3 of this chapter, the judge of the Allen circuit court may appoint a hearing officer with the powers of a magistrate under IC 33-23-5. The hearing officer continues in office until removed by the judge.

(c) The salary of a hearing officer appointed under subsection **(b)** is equal to that of a magistrate under IC 33-23-5. The hearing officer's salary must be paid by the county. The hearing officer is a county employee.

Sec. 5. (a) There is established a superior court in Allen County.

(b) The superior court shall be known as the Allen superior court.

(c) The Allen superior court is a court of record, and its judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the Allen circuit court.

Sec. 6. The Allen superior court shall have a seal consisting of a circular disk containing the words, "Allen Superior Court", "Indiana", and "Seal", in a design as the court may determine. An impression of the seal shall be spread of record upon the order book of the superior court.

Sec. 7. (a) The Allen superior court shall hold its sessions in:

- (1)** the Allen County courthouse in Fort Wayne; and
- (2)** in other places in Allen County as the court may determine.

(b) The board of county commissioners of Allen County shall provide and maintain in the courthouse and at other places in Allen

County as the court may determine:

- (1) suitable and convenient courtrooms for the holding of the court;**
- (2) suitable and convenient jury rooms and offices for the judges and other court officers and personnel; and**
- (3) other facilities as may be necessary.**

(c) The board of county commissioners of Allen County shall also provide all necessary furniture and equipment for rooms and offices of the court.

Sec. 8. (a) The Allen superior court consists of nine (9) judges as follows:

- (1) Two (2) judges serve in the family relations division.**
- (2) Three (3) judges serve in the criminal division.**
- (3) Four (4) judges serve in the civil division.**

A newly elected or appointed judge assumes the division assignment of the judge whom the judge replaces.

(b) If in the opinion of a majority of the judges there is an undue disparity in the number of cases in any division, the chief judge may assign specific cases normally assigned to that division to a judge in another division as directed by a majority of the judges.

(c) During the period under IC 3-8-2-4 in which a declaration of candidacy may be filed for a primary election, any person desiring to become a candidate for one (1) of the Allen superior court judgeships must file with the election division a declaration of candidacy adapted from the form prescribed under IC 3-8-2 that:

- (1) is signed by the candidate; and**
- (2) designates the division and the name of the incumbent judge of the judgeship that the candidate seeks.**

(d) A petition without the designation required under subsection (c) shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2).

(e) If an individual who files a declaration under subsection (c) ceases to be a candidate after the final date for filing a declaration under subsection (c), the election division may accept the filing of additional declarations of candidacy for that seat not later than noon on August 1.

Sec. 9. (a) All candidates for each respective Allen superior court judgeship shall be listed on the general election ballot in the form prescribed by IC 3-11-2, without party designation. The

candidate receiving the highest number of votes for each judgeship shall be elected to that office.

(b) IC 3, except where inconsistent with this chapter, applies to elections held under this chapter.

(c) The term of each Allen superior court judge:

(1) begins January 1 following election and ends December 31 following the election of a successor; and

(2) is six (6) years.

Sec. 10. (a) To qualify as a candidate for Allen superior court judge, a person:

(1) must be a citizen of the United States domiciled in Allen County;

(2) must have at least five (5) years active practice of law, including cases involving matters assigned to the division in which the person would serve as judge;

(3) may not previously have had any disciplinary sanction imposed upon the person by the supreme court disciplinary commission of Indiana or any similar body in another state; and

(4) may not previously have been convicted of any felony.

(b) If a person does not qualify under subsection (a), the person may not be listed on the ballot as a candidate. However, an individual who was a judge of the court on January 1, 1984, does not have to comply with subsection (a)(2).

Sec. 11. A judge or candidate for judge of the Allen superior court may not:

(1) accept a contribution (as defined in IC 3-5-2-15) from any political party, political action committee (as defined in IC 3-5-2-37), or regular party committee (as defined in IC 3-5-2-42); or

(2) accept more than a total of ten thousand dollars (\$10,000) in contributions from all sources to pay expenses connected with the candidate's candidacy.

Sec. 12. (a) The Allen superior court:

(1) may make and adopt rules and regulations for conducting the business of the court, not repugnant to Indiana laws and the rules of the supreme court; and

(2) has all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts,

and the enforcement of its orders.

(b) The judges of the superior court may administer oaths, solemnize marriages, take and certify acknowledgments of deeds, and all legal instruments, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 13. The Allen superior court may:

- (1) grant restraining orders and injunctions;
- (2) issue writs of habeas corpus;
- (3) appoint receivers, masters, and commissioners to convey real property and to grant commissions for the examination of witnesses; and
- (4) appoint other officers necessary to facilitate and transact the business of the court;

as conferred on circuit courts or the judges of circuit courts.

Sec. 14. (a) The Allen superior court may appoint probate commissioners, juvenile referees, bailiffs, court reporters, probation officers, and other personnel, including an administrative officer, the court believes are necessary to facilitate and transact the business of the court.

(b) In addition to the personnel authorized under subsection (a) and IC 31-31-3, the following magistrates may be appointed:

- (1) The judges of the Allen superior court-civil division may jointly appoint not more than four (4) full-time magistrates under IC 33-23-5 to serve the Allen superior court-civil division. The judges of the Allen superior court-civil division may jointly assign any magistrates the duties and powers of a probate commissioner.
- (2) The judge of the Allen superior court-criminal division may jointly appoint not more than three (3) full-time magistrates under IC 33-23-5 to serve the Allen superior court-criminal division. Any magistrate serves at the pleasure of, and continues in office until jointly removed by, the judges of the division that appointed the magistrate.

(c) All appointments made under this section must be made without regard to the political affiliation of the appointees. The salaries of the personnel shall be fixed and paid as provided by law. If the salaries of any of the personnel are not provided by law, the amount and time of payment of the salaries shall be fixed by the court, to be paid out of the county treasury by the county auditor,

upon the order of the court, and be entered of record. The officers and persons appointed shall perform duties as are prescribed by the court. Any administrative officer appointed by the court shall operate under the jurisdiction of the chief judge and serve at the pleasure of the chief judge. Any probate commissioners, magistrates, juvenile referees, bailiffs, court reporters, probation officers, and other personnel appointed by the court serve at the pleasure of the court.

(d) Any probate commissioner appointed by the court may be vested by the court with all suitable powers for the handling and management of the probate and guardianship matters of the court, including the fixing of all bonds, the auditing of accounts of estates and guardianships and trusts, acceptance of reports, accounts, and settlements filed in the court, the appointment of personal representatives, guardians, and trustees, the probating of wills, the taking and hearing of evidence on or concerning such matters, or any other probate, guardianship, or trust matters in litigation before the court, the enforcement of court rules and regulations, the making of reports to the court concerning the probate commissioner's actions under this subsection, including the taking and hearing of evidence together with the commissioner's findings and conclusions regarding the evidence. However, all matters under this subsection are under the final jurisdiction and decision of the judges of the court.

(e) A juvenile referee appointed by the court may be vested by the court with all suitable powers for the handling and management of the juvenile matters of the court, including the fixing of bonds, the taking and hearing of evidence on or concerning any juvenile matters in litigation before the court, the enforcement of court rules and regulations, and the making of reports to the court concerning the referee's actions under this subsection. The actions of a juvenile referee under this subsection are under final jurisdiction and decision of the judges of the court.

(f) A probate commissioner or juvenile referee may:

- (1) summon witnesses to testify before the commissioner or juvenile referee; and
- (2) administer oaths and take acknowledgments;

to carry out the commissioner's or juvenile referee's duties and powers.

(g) The powers of a magistrate appointed under this section include the powers provided in IC 33-23-5 and the power to enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-3 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

Sec. 15. Each juvenile referee appointed under section 14 of this chapter who:

- (1) is appointed by the court to serve as a full-time referee; and
- (2) does not practice law during the referee's term as referee; is entitled to receive an annual salary as provided in IC 33-38-5-7.

Sec. 16. The clerk of the Allen circuit court and the sheriff of Allen County shall be the clerk and sheriff of the Allen superior court.

Sec. 17. (a) The clerk and sheriff shall attend the Allen superior court and discharge all the duties pertaining to their respective offices as they are required to do by law in the circuit court.

(b) All laws prescribing the duties and liabilities of clerk and sheriff and the mode of proceeding against them, or either of them, for neglect of official duty, allowing fees, and providing for the collection fees in the circuit court, apply to the Allen superior court.

(c) In a case in the Allen superior court based upon a violation of a city ordinance where fines or forfeitures are adjudged against a party:

- (1) the fines or forfeitures shall be paid to and collected by the clerk and regularly remitted to the city clerk of the city that issued the ordinance; and
- (2) the city clerk shall disburse the fines or forfeitures as required by law.

Payment of fines for admitted parking violations shall be made to the city clerk of the city that issued the ordinances concerning parking violations.

Sec. 18. The clerk, under the direction of the Allen superior court, shall provide:

- (1) order books;
- (2) judgment dockets;
- (3) execution dockets;

(4) fee books; and

(5) other books, papers, and records;

as are necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 19. The Allen superior court shall maintain a single order book for the entire court. The order book may be signed on behalf of the court by any of the judges of the court. The signature constitutes authentication of the actions of each judge in the court.

Sec. 20. (a) The Allen superior court has the same jurisdiction as the Allen circuit court. Except as provided in subsection (b), the superior court has exclusive juvenile jurisdiction in Allen County.

(b) The Allen superior court has concurrent jurisdiction with the Allen circuit court concerning paternity actions.

Sec. 21. The same fees shall be taxed in the Allen superior court as are provided by law to be taxed in the Allen circuit court. When collected in the Allen superior court, the fees shall be disbursed in the same manner as similar fees are disbursed in the Allen circuit court.

Sec. 22. All laws of the state and rules adopted by the supreme court governing the Allen circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court apply to and govern the Allen superior court.

Sec. 23. (a) The clerk of the Allen circuit court and the jury commissioners appointed by the Allen circuit court:

(1) serve as jury commissioners for the Allen superior court; and

(2) are governed in all respects as provided for the selection of jurors and the issuing and servicing of process.

However, the jurors do not have to serve in any particular order in which they are drawn by the jury commissioners.

(b) A judge of the superior court may order the selection and summoning of other jurors for the court when necessary. The jurors shall serve the entire court and before any judge of the court where their service may be required.

Sec. 24. Jurors and witnesses in attendance upon the Allen superior court shall receive the same fees as are provided for by law for jurors and witnesses in the circuit court.

Sec. 25. The judge of the Allen circuit court may, with the consent of the Allen superior court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding without a further transcript to be redocketed and disposed of as if originally filed with the Allen superior court.

Sec. 26. Any judge of the Allen superior court may, with the consent of the judge of the Allen circuit court, transfer any action, cause, or proceeding filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript thereof to be redocketed and disposed of as if originally filed with the circuit court.

Sec. 27. The judge of the Allen circuit court may sit as a judge of the superior court, with the superior court's permission, in all matters pending before the superior court, without limitation and without any further order, in the same manner as if the circuit court judge were a judge of the superior court with all the rights and powers as if the circuit court judge were appointed judge of the superior court.

Sec. 28. Any party may appeal from any order or judgment of the superior court in any case where an appeal may be had from a similar order or judgment of the circuit court.

Sec. 29. The process of the Allen superior court must have the seal affixed and be attested, directed, served, and returned, and be in the form as is provided for process issuing from the circuit court.

Sec. 30. (a) The Allen superior court shall be governed and operated by a board of judges composed of all the judges of the superior court. Six (6) judges are required for a quorum for conducting business and as a majority for taking action. Every two (2) years the board of judges shall elect a chief judge to carry out ministerial functions of representation as the board of judges periodically determines by a majority of the board's members.

(b) Matters of administration, budget, expenditures, policy, and

procedure affecting the entire superior court shall be determined by a majority of the board of judges. Any determination binds the entire board of judges and each judge of the board.

(c) One (1) budget covering all the divisions of the superior court shall be prepared for the superior court and submitted to the county fiscal body. However, each division shall prepare its own budget as a component of the superior court's total budget.

Sec. 31. (a) The court, by rules adopted by the Allen superior court, shall divide the work of the court into the following divisions:

(1) A family relations division.

(2) A criminal division (including a standard minor offenses and violations docket under IC 33-29-2-8).

(3) A civil division (including a standard small claims docket under IC 33-29-2-3.)

(b) Cases involving juvenile matters shall be assigned to the family relations division.

(c) Cases involving matters specified in IC 33-29-2-8 shall be assigned to the criminal division.

(d) Cases involving matters specified in IC 33-29-2-3 shall be assigned to the small claims docket in the civil division.

(e) The work of each division may be divided further by rules adopted by the court.

(f) Every two (2) years each division of the court shall elect an administrative judge for that division. The administrative judge shall carry out ministerial, administrative, and assignment functions as are periodically determined by a majority of the judges of that division.

(g) Matters of administration, budget, expenditures, policy, and procedure in each division shall be determined by a majority of the judges of that division.

(h) Disputes within any division concerning administration, budget, expenditures, policy, procedure, and assignments that pertain to the division as a whole or to any individual judge of the division, that for any reason cannot be resolved by a majority of the judges in the division, shall be submitted to the board of judges and determined by a majority of the board of judges.

(i) A resolution approved by a majority of the board of judges that resolves disputes within a division must include at least one (1)

of the judges of that division and binds all of the judges of that division.

Sec. 32. (a) There is established a judicial nominating commission for the Allen superior court.

(b) The board of county commissioners of Allen County shall provide all facilities, equipment, supplies, and services necessary for the administration of the duties of the commission.

(c) The members of the commission serve without compensation. However, the board of commissioners shall reimburse members of the commission for actual expenses incurred in performing their duties.

Sec. 33. (a) The judicial nominating commission consists of seven (7) members, the majority of whom shall form a quorum. The chief justice of the supreme court (or a justice of the supreme court or judge of the court of appeals designated by the chief justice) shall be a member and shall act as chairman. Persons who are admitted to the practice of law and who reside in Allen County shall, under sections 35 and 36 of this chapter, elect three (3) members to serve on the commission. The governor shall appoint to the commission three (3) residents of Allen County who are not admitted to the practice of law. However, not more than two (2) of these appointees may be from the same political party. If the governor fails to appoint any of the nonattorney commission members within the time required under section 34 of this chapter, the appointment shall be made by the chief justice of the supreme court.

(b) A member of the commission other than a judge or justice may not hold any other salaried public office, and a member may not hold an office in a political party or organization. A member of the commission is ineligible for appointment to a judicial office in Allen County while the member is a member of the commission and for three (3) years thereafter. If any member of the commission other than a judge or justice terminates the member's residence in Allen County, the member is considered to have resigned from the commission.

Sec. 34. (a) The governor shall appoint the three (3) nonattorney members of the commission.

(b) One (1) month before the expiration of a term of office of a nonattorney commissioner, the governor shall:

- (1) reappoint the commissioner; or
- (2) appoint a replacement.

All appointments shall be certified to the secretary of state, the clerk of the supreme court, and the clerk of Allen superior court not more than ten (10) days after the appointment.

(c) After their initial terms, the governor shall appoint each nonattorney commissioner for a term of four (4) years.

(d) When a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the governor in writing of that fact. Vacancies in the office of nonattorney commissioners shall be filled by appointment of the governor not more than sixty (60) days after the governor has notice of the vacancy. The nonattorney commissioner appointed shall serve during the unexpired term of the member whose vacancy the nonattorney commissioner has filled.

Sec. 35. (a) Persons who are admitted to the practice of law and who reside in Allen County (referred to as "attorney electors") shall elect three (3) members to serve on the commission. The term of office of each elected attorney member is four (4) years, commencing on the first day of October following the member's election. The election day is the first Tuesday in September 1983, and every four (4) years thereafter. During the month before the expiration of each attorney commissioner's term of office, an election shall be held to fill the succeeding four (4) year term of office.

(b) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner shall be filled for the unexpired term by a special election.

Sec. 36. The attorney members of the commission shall be elected by the following process:

- (1) The clerk of the superior court shall, at least ninety (90) days before the date of election, notify all attorneys in Allen County of the election by mail, informing them that nominations must be made to the clerk of the superior court at least sixty (60) days before the election.
- (2) A nomination in writing, accompanied by a signed petition of ten (10) attorney electors and the written consent of the qualified nominee, shall be filed by an attorney elector in the office of the clerk at least sixty (60) days before the election.

(3) The clerk shall prepare and print ballots containing the names and residential addresses of all attorney nominees whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election.

(A) The ballot must read:

**"ALLEN SUPERIOR COURT
NOMINATING COMMISSION BALLOT**

To be cast by individuals residing in Allen County and admitted to the practice of law in Indiana. Vote for not more than three (3) of the following candidates for terms commencing _____.

(Name) (Address)

(Name) (Address)

(etc.) (etc.)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the clerk of the Allen Superior Court not later than _____.

DESTROY BALLOT IF NOT USED".

(B) The three (3) nominees receiving the most votes are elected.

(4) The clerk shall also supply with each ballot distributed by the clerk a certificate, to be completed and signed and returned by the attorney elector voting the ballot, certifying that the attorney elector is admitted to the practice of law in Indiana, that the attorney elector resides in Allen County, and that the attorney elector voted the ballot returned. A ballot not accompanied by the signed certificate of the voter may not be counted.

(5) A separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot is to be placed. This envelope may not be opened until the counting of the ballots.

(6) The clerk of the superior court shall mail a ballot and its accompanying material to all qualified electors at least two (2) weeks before the date of election.

(7) Upon receiving the completed ballots and the accompanying certificates, the clerk shall ensure that the certificates have been completed in compliance with this chapter. All ballots that are accompanied by a valid certificate

shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(8) The clerk, with the assistance of the Allen County election board, shall open and canvass all ballots after 4 p.m. on the day of the election in the office of the clerk of the Allen superior court. A ballot received after 4 p.m. may not be counted unless the chairman of the judicial nominating commission orders an extension of time because of extraordinary circumstances. Upon canvassing the ballots the clerk shall place all ballots in their package. These, along with the certificates, shall be retained in the clerk's office for six (6) months, and the clerk may not permit anyone to inspect them except upon an order of the court of appeals.

(9) If two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give that nominee a plurality, the canvassers shall resolve the tie by lot, and the winner of the lot is considered to have been elected.

Sec. 37. After:

(1) the attorney members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state, the clerk of the supreme court, and the clerk of Allen superior court;

the superior court clerk shall notify the members of the commission of their election or appointment.

Sec. 38. (a) A member of the commission shall serve until the member's successor is appointed or elected.

(b) An attorney commissioner or nonattorney commissioner is not eligible for more than two (2) successive reelections or reappointments.

Sec. 39. (a) When a judge of the superior court:

(1) dies, resigns, is removed from office; or

(2) is for any reason ineligible to continue or incapable of continuing in office until the end of the judge's term in office;

a judge in another division may not more than thirty (30) days after the vacancy occurs transfer to the vacant position for the remainder of the transferring judge's term. A judge who has made

one (1) transfer is ineligible to make any other transfers. If more than one (1) judge desires to transfer, the most senior of these judges is entitled to transfer. After a transfer, or the thirty (30) day period if a transfer is not made, the commission shall meet to nominate three (3) candidates to fill the unexpired term of the vacancy caused by the transferring judge or the original vacancy if a transfer is not made.

(b) The clerk shall promptly notify the members of the commission of a vacancy that the commission must fill under subsection (a), and the chairman shall call a meeting of the commission within ten (10) days following that notice. The commission shall submit its nominations of three (3) candidates for the vacancy and shall certify them to the governor not later than sixty (60) days after the vacancy occurred. When it is known that a vacancy will occur at a definite future date within the term of the governor then serving:

- (1) the clerk shall notify the chairman and each member of the commission immediately; and
- (2) the chairman shall call a meeting of the commission within ten (10) days following that notice.

The commission may then submit its nominations of three (3) candidates for each impending vacancy and shall certify them to the governor.

(c) Meetings of the commission shall be called by its chairman, or, if the chairman fails to call a necessary meeting, upon the call of any four (4) members of the commission. Written notice of a meeting shall be given by mail to each member of the commission at least five (5) days before the meeting, unless the commission at its previous meeting designated the time and place of its next meeting.

(d) Meetings of the commission may be held in the Allen County courthouse or in another public building in Allen County designated by the commission.

(e) The commission shall act only at a meeting and may act only by the concurrence of a majority of its members attending a meeting. The commission may adopt rules for the conduct of its proceedings and the discharge of its duties.

Sec. 40. In selecting the three (3) nominees to be submitted to the governor, the commission shall comply with the following

requirements:

(1) The commission shall submit only the names of the three (3) most highly qualified candidates from among all those eligible individuals considered. To be eligible for nomination as a judge of the Allen superior court, a person must meet the qualifications listed in section 10 of this chapter.

(2) As an aid in choosing the three (3) most qualified candidates, the commission shall in writing evaluate each eligible individual it considers on the following factors:

(A) Law school record, including any academic honors and achievements.

(B) Contributions to scholarly journals and publications, legislative draftings, and legal briefs.

(C) Activities in public service, including:

(i) writings and speeches concerning public or civic affairs that are on public record, including campaign speeches or writing, letters to newspapers, and testimony before public agencies;

(ii) government service;

(iii) efforts and achievements in improving the administration of justice; and

(iv) other conduct relating to the candidate's profession.

(D) Legal experience, including the number of years practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

(E) Probable judicial temperament.

(F) Physical condition, including age, stamina, and possible habitual intemperance.

(G) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate, patience, decisiveness, and dedication.

(H) Membership on boards of directors, financial interests, and any other consideration that might create conflict of interest with a judicial office.

(I) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.

(3) An individual may not be evaluated before the individual states in writing that the individual desires to hold a judicial

office that is or will be created by a vacancy.

(4) The political affiliations of a candidate may not be considered.

Sec. 41. The commission shall submit to the governor, with its list of nominees, its written evaluation of the qualifications of each nominee.

Sec. 42. (a) After the commission has nominated and submitted to the governor the names of three (3) nominees:

(1) a name may be withdrawn for a cause considered by the commission to substantially affect the nominee's qualifications to hold office; and

(2) another name or other names may be substituted at any time before the appointment is made to fill the vacancy.

(b) If a nominee dies or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee.

(c) If two (2) or more vacancies exist, the commission shall nominate and submit to the governor a list of three (3) different persons for each of the vacancies. Before an appointment is made, the commission may withdraw the lists of nominations and change the names of any persons nominated from one (1) list to another, or may substitute a new name for any of those previously nominated.

Sec. 43. (a) A vacancy created by a superior court judge's departure from office before the expiration of the judge's term in office that is not filled by a transfer under section 39 of this chapter shall be filled by appointment of the governor from the list of nominees. If the governor fails to make an appointment from the list within sixty (60) days after the list is presented to the governor, the appointment shall be made by the chief justice of the supreme court from the same list.

(b) The governor shall make all appointments to the Allen superior court without regard to the political affiliation of any of the nominees and shall consider only those qualifications included in section 40 of this chapter.

Sec. 44. An appointment to the Allen superior court for the remainder of a departing judge's term in office takes effect immediately if a vacancy exists at the date of the appointment. The appointment takes effect on the date the vacancy is created if the

vacancy does not yet exist.

Sec. 45. A judge appointed under section 43 of this chapter serves during the unexpired part of the judge's predecessor's term in office.

Chapter 3. Bartholomew County

Sec. 1. Bartholomew County constitutes the ninth judicial circuit.

Sec. 2. (a) There are created two (2) courts of record to be known as Bartholomew superior court No. 1 and Bartholomew superior court No. 2.

(b) Each court is a standard superior court as described in IC 33-29-1.

(c) Bartholomew County comprises the judicial district of each court.

Sec. 3. The clerk of the Bartholomew circuit court is the clerk of the Bartholomew superior courts, and the sheriff of Bartholomew County is the sheriff of the Bartholomew superior courts. The clerk and sheriff shall attend the courts and discharge all the duties pertaining to their respective offices as they are required to do by law with reference to the Bartholomew circuit court.

Sec. 4. Each Bartholomew superior court has one (1) judge who shall hold sessions in the Bartholomew County courthouse in Columbus.

Sec. 5. (a) The judges of the Bartholomew superior courts:

(1) may make and adopt rules for conducting the business of the Bartholomew superior courts not repugnant to the laws of the state or rules of the supreme court; and

(2) have all powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and enforcement of its orders.

(b) In addition to the powers described in IC 33-29-1-4, the judges of each superior court may:

(1) give all necessary certificates for the authentication of records and proceedings of each court; and

(2) make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Sec. 6. (a) The judge of Bartholomew superior court No. 2 may appoint one (1) full-time magistrate to serve Bartholomew superior

court No. 2.

(b) The magistrate continues in office until removed by the judge of Bartholomew superior court No. 2.

Sec. 7. The Bartholomew superior courts have concurrent jurisdiction, both original and appellate, with the Bartholomew circuit court in all:

- (1) civil actions and proceedings at law and in equity; and**
- (2) criminal and probate matters, actions, and proceedings of which the Bartholomew circuit court has jurisdiction.**

However, the Bartholomew circuit court has exclusive jurisdiction in all juvenile matters, actions, and proceedings.

Sec. 8. The Bartholomew superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 4. Benton County

Sec. 1. (a) Benton County constitutes the seventy-sixth judicial circuit.

(b) The Benton circuit court has a standard small claims and misdemeanor division.

Chapter 5. Blackford County

Sec. 1. Blackford County constitutes the seventy-first judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Blackford superior court.

(b) The Blackford superior court is a standard superior court as described in IC 33-29-1.

(c) Blackford County comprises the judicial district of the court.

Sec. 3. The Blackford superior court has one (1) judge who shall hold sessions in the Blackford County courthouse in Hartford City or in any other places in the county as the Blackford County executive may provide.

Sec. 4. (a) In addition to a bailiff and an official court reporter for the court appointed under IC 33-29-1-5, the judge of the Blackford superior court may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. The salary of a referee, commissioner, or other person:

- (1) shall be fixed in the same manner as the salaries of the personnel for the Blackford circuit court; and**
- (2) shall be paid monthly out of the treasury of Blackford**

County as provided by law.

(b) Personnel appointed under this section and IC 33-29-1-5 continue in office until removed by the judge of the court.

Sec. 5. (a) Except as provided in subsection (b), the Blackford superior court has the same jurisdiction as the Blackford circuit court.

(b) The Blackford circuit court has exclusive juvenile jurisdiction.

Sec. 6. The Blackford superior court has a standard small claims and misdemeanor division.

Chapter 6. Boone County

Sec. 1. Boone County constitutes the twentieth judicial circuit.

Sec. 2. (a) There are established two (2) courts of record to be known as Boone superior court No. 1 and Boone superior court No. 2.

(b) Except as otherwise provided in this chapter, both superior courts are standard superior courts as described in IC 33-29-1.

(c) Boone County constitutes the judicial district of each superior court.

Sec. 3. Each Boone superior court has one (1) judge who shall hold session in the Boone County courthouse in Lebanon.

Sec. 4. A case filed in the Boone circuit court or one (1) of the Boone superior courts may not be transferred by a court to one (1) of the other courts except on written stipulation of all the parties to the cause, other than parties defaulted. The stipulation shall be filed in the cause.

Sec. 5. (a) If either Boone superior court does not have jurisdiction of any action or proceeding filed in the superior court or the Boone circuit court does not have jurisdiction of any action or proceeding filed in the circuit court but under this chapter the jurisdiction is in one (1) of the other courts, the court in which the action or proceeding was filed shall certify the case and the papers to the proper court, which shall proceed as if the case were originally filed in the proper court. The transfer shall be made by order entered on the order book of the court transferring the action or proceeding and shall be docketed in the court to which it was transferred without a transcript.

(b) If any action, case, proceeding, or matter transferred under this section is taken on change of venue to the court of another

county, or if the cause is appealed to the court of appeals or supreme court from any order, ruling, judgment, or decree, the clerk on request or praecipe of the party taking the change of venue or appeal shall make a certified transcript of the proceedings in each court, and the transcript has the same force and effect and gives the court to which it is taken on change of venue or appeal the same jurisdiction as though the transcript originally had been made when the actions, causes, cases, proceedings, and matters were transferred from one (1) court to the other.

Sec. 6. (a) The Boone superior courts shall, during the last sixty (60) days in each calendar year, each appoint for the next calendar year two (2) persons who are residents of Boone County as jury commissioners. The law concerning jury commissioners appointed by the circuit court fully governs the jury commissioners appointed by the superior courts.

(b) The jury commissioners shall prepare and draw the petit jury for the superior courts as is done by the jury commissioners for the circuit court. The superior courts in making appointments of the jury commissioners, the clerk in issuing process for the jury, and the sheriff in serving process are governed by the law for petit jurors for the circuit court.

(c) Each superior court may order on what day jurors shall be summoned to attend the court. The judge of that court may order the selection and summoning of other jurors for the court when necessary. If a jury is not drawn, the clerk of the court shall select from among the properly qualified residents of the county a jury for the term, who shall be summoned and considered in all things as the regular panel of that court.

Sec. 7. (a) Subject to this section, the Boone superior courts have the same jurisdiction as the Boone circuit court.

(b) Only the circuit court has juvenile jurisdiction.

(c) Except as provided in IC 31-30-1-1, only Boone superior court No. 1 has probate jurisdiction.

Sec. 8. The Boone superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 7. Brown County

Sec. 1. (a) Brown County constitutes the eighty-eighth judicial circuit.

(b) The Brown circuit court has a standard small claims and

misdemeanor division.

(c) The judge of the Brown circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

Chapter 8. Carroll County

Sec. 1. (a) Carroll County constitutes the seventy-fourth judicial circuit.

(b) The Carroll circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as the Carroll superior court.

(b) The Carroll superior court is a standard superior court as described in IC 33-29-1.

(c) Carroll County comprises the judicial district of the superior court.

Sec. 3. The Carroll superior court has one (1) judge who shall hold sessions in the Carroll County courthouse in Delphi or in other places in the county as the Carroll County executive may provide.

Sec. 4. The Carroll superior court has the same jurisdiction as the Carroll circuit court.

Sec. 5. The Carroll superior court has a standard small claims and misdemeanor division.

Chapter 9. Cass County

Sec. 1. Cass County constitutes the twenty-ninth judicial circuit.

Sec. 2. (a) There are established two (2) courts of record to be known as Cass superior court No. 1 and Cass superior court No. 2.

(b) Each Cass superior court is a standard superior court as described in IC 33-29-1.

(c) Cass County comprises the judicial district of each superior court.

Sec. 3. Each Cass superior court has one (1) judge who shall hold sessions in the Cass County courthouse in Logansport or in other places in the county as the board of county commissioners of Cass County may provide.

Sec. 4. The clerk of the Cass circuit court shall serve as the clerk of each Cass superior court, and the sheriff of Cass County shall serve as the sheriff of each Cass superior court. They shall attend the courts and perform the same duties relating to their offices as

they are required to do with respect to the Cass circuit court.

Sec. 5. (a) Cass superior court No. 1 has the same jurisdiction as the Cass circuit court, except that only the circuit court has juvenile jurisdiction.

(b) Cass superior court No. 2 has the same jurisdiction as Cass superior court No. 1.

Sec. 6. Each Cass superior court has a standard small claims and misdemeanor division.

Chapter 10. Clark County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. (a) Clark County constitutes the fourth judicial circuit.

(b) The judges of the Clark circuit court and Clark superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the Clark circuit and superior courts.

Sec. 3. (a) There are established three (3) superior courts in Clark County, each of which consists of one (1) judge, who shall hold the judge's office for a term of six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified.

(b) To be eligible to hold office as a judge of Clark superior court, a person must be:

- (1)** a resident of Clark County; and
- (2)** admitted to the bar of Indiana.

Sec. 4. (a) The superior courts shall be known as Clark superior court No. 1, Clark superior court No. 2, and Clark superior court No. 3, and the county of Clark shall constitute the judicial district of each court.

(b) Each superior court shall be a court of record having the same jurisdiction as the circuit court. A judge of the superior court has the same powers relating to the conduct of business of the court as the judge of the circuit court.

(c) Each court shall have a seal containing the words "Clark Superior Court _____ (insert "No. 1", "No. 2", or "No. 3") of Clark County, Indiana".

(d) Clark superior court No. 3 has a standard small claims and misdemeanor docket.

Sec. 5. Each judge of a superior court may make and adopt rules

and regulations for conducting the business of the judge's court, not repugnant to Indiana law.

Sec. 6. Each judge of a superior court has the same power to grant restraining orders and injunctions, to issue writs of habeas corpus and of mandate and prohibition, to appoint receivers, master commissioners to convey real property, and to grant commissions for the examination of witnesses, and to appoint other officers necessary to facilitate and transact the business of the court as is conferred on circuit courts or the judges of circuit courts.

Sec. 7. Each superior court of Clark County shall hold its sessions at the courthouse of the county, or at other convenient places as the court designates in the county. The county commissioners shall provide suitable quarters for each court.

Sec. 8. The clerk, under the direction of a judge of the superior court, shall provide order books, judgment dockets, execution dockets, fee books, and such other books, papers and records as are necessary for that court, and all books, papers, and proceedings of that court shall be kept distinct and separate from those of other courts, and the records of all civil cases separate and apart from the records of juvenile matters.

Sec. 9. Each judge of a superior court shall appoint a bailiff for the court, whose salary shall be fixed and paid as provided by law.

Sec. 10. Each judge of a superior court shall appoint a court reporter, whose duties, salary, and term, shall be regulated in the same manner as the court reporter of circuit courts.

Sec. 11. All laws governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court are applicable to and govern the courts established under this chapter. However, a superior court may not appoint jury commissioners or call the grand jury.

Sec. 12. The process of each superior court must have the seal affixed and be attested, directed, served, and returned, and be in form as is provided for process issuing from the circuit court.

Sec. 13. When an affidavit for a change of venue is filed in a

superior court for any of the causes described in IC 34-35-1-1(1), IC 34-35-1-1(2), IC 34-35-1-1(6), or IC 34-35-1-1(7):

(1) a judge of a circuit court or superior court or a competent attorney shall be called to hear and determine the cause as provided by law for changes of venue in causes pending in the circuit court; or

(2) the cause may be certified to the Clark circuit court or a Clark superior court, in the discretion of the judge of the superior court. The original papers shall be transferred to the court. A transcript is not necessary. The circuit court has jurisdiction to hear and determine the cause and render judgment.

If the cause alleged in the affidavit is embraced in IC 34-35-1-1(3), IC 34-35-1-1(4), and IC 34-35-1-1(5), the change shall be granted, and the cause directed to the circuit or superior court of another county, as provided in cases of changes of venue from the circuit court, and the court to which the case is sent has jurisdiction to hear and determine the cause and render judgment.

Sec. 14. On the third Monday of each January, the clerk of each superior court and jury commissioners appointed by the judge of the circuit court shall select a petit jury, in the manner provided by law, to serve each superior court for that calendar year. The officers in selecting, the clerk in issuing process for the jury, and the sheriff in serving the process shall be governed by the rules and regulations prescribed for the selection of petit jurors in the circuit court. However, a superior court may order on what day the jurors shall be summoned to attend that court. The judge of a superior court may order the selecting and summoning of other jurors for the court whenever the same may be necessary.

Sec. 15. (a) The judge of the Clark circuit court may, with the consent of a judge of the superior court, transfer any action or proceeding from the circuit court to that superior court. The judge of a superior court may, with the consent of the judge of the circuit court, transfer any action or proceeding from that superior court to the circuit court. The judge of a superior court may, with the consent of the judge of the other superior court, transfer any action or proceeding from that superior court to the other superior court.

(b) The judge of the Clark circuit court may, with the consent of the judge of the superior court, sit as a judge of that superior

court in any matter, as if the judge were an elected judge of that superior court. The judge of a superior court may, with consent of the judge of the circuit court, sit as a judge of the circuit court as if the judge were an elected judge of the circuit court. The judge of a superior court may, with the consent of the judge of the other superior court, sit as judge of the other superior court as if the judge were the elected judge of that superior court.

Chapter 11. Clay County

Sec. 1. Clay County constitutes the thirteenth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Clay superior court.

(b) The Clay superior court is a standard superior court as described in IC 33-29-1.

(c) Clay County comprises the judicial district of the superior court.

Sec. 3. The Clay superior court has one (1) judge who shall hold sessions in the Clay County courthouse in Brazil or in other places in the county as the board of county commissioners of Clay County may provide.

Sec. 4. The judges of the Clay superior court and Clay circuit court may jointly, in accordance with the Indiana Rules of Trial Procedure, establish local rules for governing their courts, including rules for distribution of cases over which the judges have concurrent jurisdiction.

Sec. 5. The Clay superior court has the same jurisdiction as the Clay circuit court, except that only the circuit court has juvenile and probate jurisdiction.

Sec. 6. The Clay superior court has a standard small claims and misdemeanor division.

Chapter 12. Clinton County

Sec. 1. Clinton County constitutes the forty-fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Clinton superior court.

(b) The Clinton superior court is a standard superior court as described in IC 33-29-1.

(c) Clinton County comprises the judicial district of the superior court.

Sec. 3. The Clinton superior court has one (1) judge who shall hold sessions in the Clinton County courthouse in Frankfort or in

other places in the county as the Clinton County executive may provide.

Sec. 4. The Clinton superior court has the same jurisdiction as the Clinton circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Clinton superior court has a standard small claims and misdemeanor division.

Chapter 13. Crawford County

Sec. 1. (a) Crawford County constitutes the seventy-seventh judicial circuit.

(b) The Crawford circuit court has a standard small claims and misdemeanor division.

Chapter 14. Daviess County

Sec. 1. Daviess County constitutes the forty-ninth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Daviess superior court.

(b) The Daviess superior court is a standard superior court as described in IC 33-29-1.

(c) Daviess County comprises the judicial district of the superior court.

Sec. 3. The Daviess superior court has one (1) judge who shall hold sessions in the Daviess County courthouse in Washington or in other places in the county as the Daviess County executive may provide.

Sec. 4. The Daviess superior court has the same jurisdiction as the Daviess circuit court.

Sec. 5. The Daviess superior court has a standard small claims and misdemeanor division.

Chapter 15. Dearborn County

Sec. 1. Dearborn County and Ohio County constitute the seventh judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Dearborn superior court.

(b) The Dearborn superior court is a standard superior court as described in IC 33-29-1.

(c) Dearborn County comprises the judicial district of the superior court.

Sec. 3. The Dearborn superior court has one (1) judge who shall

hold sessions in the Dearborn County courthouse in Lawrenceburg or in other places in the county as the Dearborn County executive may provide.

Sec. 4. In addition to a bailiff and an official court reporter for the court appointed under IC 33-29-1-5, the judge may appoint a referee, a commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. The salary of a referee, a commissioner, or other person:

- (1) shall be fixed in the same manner as the salaries of the personnel for the Dearborn circuit court; and
- (2) shall be paid monthly out of the treasury of Dearborn County as provided by law.

Personnel appointed under this section or IC 33-29-1-5 continue in office until removed by the judge of the court.

Sec. 5. (a) Except as provided in subsection (b), the Dearborn superior court has the same jurisdiction as the Dearborn circuit court.

(b) The Dearborn circuit court has exclusive juvenile jurisdiction.

Sec. 6. The Dearborn superior court has a standard small claims and misdemeanor division.

Chapter 16. Decatur County

Sec. 1. Decatur County constitutes the sixty-ninth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Decatur superior court.

(b) The Decatur superior court is a standard superior court as described in IC 33-29-1.

(c) Decatur County comprises the judicial district of the superior court.

Sec. 3. The Decatur superior court has one (1) judge who shall hold sessions in:

- (1) the Decatur County courthouse in Greensburg; or
- (2) other places in the county that the Decatur County executive provides.

Sec. 4. The Decatur superior court has the same jurisdiction as the Decatur circuit court.

Sec. 5. The Decatur superior court has a standard small claims and misdemeanor division.

Chapter 17. DeKalb County

Sec. 1. DeKalb County constitutes the seventy-fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the DeKalb superior court.

(b) The DeKalb superior court is a standard superior court as described in IC 33-29-1.

(c) DeKalb County comprises the judicial district of the superior court.

Sec. 3. The DeKalb superior court has one (1) judge who shall hold sessions in:

(1) the DeKalb County courthouse in Auburn; or

(2) other places in the county as the board of county commissioners of DeKalb County may provide.

Sec. 4. (a) If the transcript of the original papers in a civil action or proceeding received by the clerk of the circuit and superior courts of DeKalb County on change of venue from another county contains an order of the court from which venue was changed designating the circuit court or the superior court as the court to which the case is to be transferred, the clerk shall file the action or proceeding on the docket of the designated court.

(b) If the transcript of the original papers in a civil action or proceeding does not contain an order designating the court to which the case is to be transferred, the clerk shall alternately file each action or proceeding on the docket of the circuit court and the docket of the superior court, depending on the order and sequence in which the papers of the cases reach the clerk, so that if the first case is assigned to the circuit court, the next must be assigned to the superior court.

Sec. 5. (a) In addition to the appointments made under IC 33-29-1-5, if the county executive establishes the position of small claims referee to serve the court, the judge of the DeKalb superior court may appoint a part-time small claims referee under IC 33-29-3 to assist the court in the exercise of its small claims jurisdiction.

(b) The small claims referee is entitled to reasonable compensation not exceeding twenty thousand dollars (\$20,000) a year as recommended by the judge of the court to be paid by the county after the salary is approved by the county fiscal body. The

state shall pay fifty percent (50%) of the salary set under this subsection and the county shall pay the remainder of the salary.

(c) The county executive shall provide and maintain a suitable courtroom and facilities for the use of the small claims referee, including necessary furniture and equipment.

(d) The court shall employ administrative staff necessary to support the functions of the small claims referee.

(e) The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

Sec. 6. The DeKalb superior court has the same jurisdiction as the DeKalb circuit court.

Sec. 7. The DeKalb superior court has a standard small claims and misdemeanor division.

Chapter 18. Delaware County

Sec. 1. Delaware County constitutes the forty-sixth judicial circuit.

Sec. 2. (a) The Delaware circuit court is a court of general jurisdiction with five (5) judges. The divisions of the court shall be known as Delaware circuit court No. 1, No. 2, No. 3, No. 4, and No. 5. The county of Delaware constitutes the judicial district of the court and each of the court's divisions. The court shall maintain the following dockets:

- (1) Small claims.
- (2) Minor offenses and violations.
- (3) Criminal.
- (4) Juvenile.
- (5) Civil.
- (6) Probate.

(b) The assignment of judges of the court to the dockets specified in subsection (a) shall be by rule of the court. However, Delaware circuit court No. 4 and Delaware circuit court No. 5 shall each have a standard small claims and misdemeanor docket.

Sec. 3. The judges of the Delaware circuit court shall select from among themselves a presiding judge of the court. The presiding judge shall be selected for a minimum term of twelve (12) months.

Sec. 4. When action of the entire court is required, including selection of a presiding judge under section 3 of this chapter and adoption of rules under section 6 of this chapter, the judges of the court shall act in concert. If the judges disagree, the decision of the

majority of the judges controls.

Sec. 5. In accordance with rules adopted by the judges of the Delaware circuit court under section 6 of this chapter, the presiding judge shall do the following:

- (1) Ensure that the court operates efficiently and judicially.
- (2) Annually submit to the fiscal body of Delaware County a budget for the court, including amounts necessary for the following:
 - (A) Operation of the Delaware circuit court's probation department.
 - (B) Defense of indigents.
 - (C) Maintenance of an adequate law library.
- (3) Make appointments or selections required of a circuit or superior court judge.

Sec. 6. (a) The judges of the Delaware circuit court shall adopt rules to provide for the administration of the court, including rules governing the following:

- (1) Allocation of case load.
- (2) Legal representation for indigents.
- (3) Budgetary matters of the court.
- (4) Operation of the probation department.
- (5) Term of administration of the presiding judge.
- (6) Employment and management of court personnel.
- (7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The court shall file with the division of state court administration a copy of the rules adopted under this section.

Sec. 7. (a) Each judge of the Delaware circuit court may, subject to the budget approved for the court by the fiscal body of Delaware County, employ personnel necessary for the proper administration of the judge's docket.

(b) Personnel employed under this section:

- (1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and
 - (2) are subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.
- (c)** A commissioner is entitled to practice law in any division of

the court in which the commissioner does not have appointive judicial authority. A commissioner has judicial authority only in the division of the court presided over by the judge who appointed the commissioner.

Sec. 8. (a) The Delaware circuit court may appoint a court administrator subject to the budget approved for the court by the fiscal body of Delaware County.

(b) A court administrator appointed under this section is subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.

Chapter 19. Dubois County

Sec. 1. Dubois County constitutes the fifty-seventh judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Dubois superior court.

(b) The Dubois superior court is a standard superior court as described in IC 33-29-1.

(c) Dubois County comprises the judicial district of the superior court.

Sec. 3. The Dubois superior court has one (1) judge who shall hold sessions in:

(1) the Dubois County courthouse in Jasper; or

(2) other places in the county as the board of county commissioners of Dubois County may provide.

Sec. 4. The clerk of the Dubois circuit court shall serve as the clerk of the Dubois superior court, and the sheriff of Dubois County shall serve as the sheriff of the Dubois superior court. They shall attend the court and perform the same duties relating to their offices as they are required to do with respect to the Dubois circuit court.

Sec. 5. The Dubois superior court has the same jurisdiction as the Dubois circuit court.

Sec. 6. The Dubois superior court has a standard small claims and misdemeanor division.

Chapter 20. Elkhart County

Sec. 1. Elkhart County constitutes the thirty-fourth judicial circuit.

Sec. 2. (a) The judges of the Elkhart circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-23-5

to serve the circuit and superior courts.

(b) The magistrate continues in office until removed by the judges of the circuit and superior courts.

Sec. 3. (a) There is established a court of record to be known as the Elkhart superior court.

(b) The Elkhart superior court is a standard superior court as described in IC 33-29-1.

(c) Elkhart County comprises the judicial district of the court.

Sec. 4. The Elkhart superior court has six (6) judges. Four (4) of the judges of the court shall hold sessions in the Elkhart County courts building in Elkhart. Two (2) of the judges of the court shall hold sessions in an appropriate place in Goshen selected by the county commissioners.

Sec. 5. The judges of the Elkhart superior court may make rules for conducting the business of the court.

Sec. 6. The Elkhart superior court has the same jurisdiction as the Elkhart circuit court.

Sec. 7. The Elkhart superior court has a standard small claims and misdemeanor division.

Chapter 21. Fayette County

Sec. 1. Fayette County constitutes the seventy-third judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Fayette superior court.

(b) The Fayette superior court is a standard superior court as described in IC 33-29-1.

(c) Fayette County comprises the judicial district of the court.

Sec. 3. The Fayette superior court has one (1) judge who shall hold sessions in:

(1) the Fayette County courthouse in Connersville; or

(2) other places in the county as the Fayette County executive may provide.

Sec. 4. The Fayette superior court has the same jurisdiction as the Fayette circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Fayette superior court has a standard small claims and misdemeanor division.

Chapter 22. Floyd County

Sec. 1. (a) Floyd County constitutes the fifty-second judicial

circuit.

(b) The judges of the Floyd circuit court, Floyd superior court, and Floyd county court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit, superior, and county courts.

(c) The magistrate continues in office until removed by the judges of the Floyd circuit, superior, and county courts.

Sec. 2. (a) There is established a court of record to be known as the Floyd superior court.

(b) Except as provided in section 3 of this chapter, the Floyd superior court is a standard superior court as described in IC 33-29-1.

(c) Floyd County comprises the judicial district of the court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) The Floyd superior court has one (1) judge, who shall be elected at the general election every six (6) years in Floyd County. The judge's term begins January 1 following the judge's election and ends December 31 following the election of the judge's successor.

Sec. 4. The Floyd superior court shall hold its sessions in:

(1) the Floyd County courthouse in New Albany; or

(2) other places in the county as the board of county commissioners of Floyd County may provide.

Sec. 5. The Floyd superior court has the same jurisdiction as the Floyd circuit court, except that only the circuit court has jurisdiction over juvenile, probate, and trust matters.

Chapter 23. Fountain County

Sec. 1. (a) Fountain County constitutes the sixty-first judicial circuit.

(b) The Fountain circuit court has a standard small claims and misdemeanor division.

Chapter 24. Franklin County

Sec. 1. (a) Franklin County constitutes the thirty-seventh judicial circuit.

(b) The Franklin circuit court has a standard small claims and misdemeanor division.

Chapter 25. Fulton County

Sec. 1. Fulton County constitutes the forty-first judicial circuit.

Sec. 2. (a) There is established a court of record to be known as

the Fulton superior court.

(b) The Fulton superior court is a standard superior court as described in IC 33-29-1.

(c) Fulton County comprises the judicial district of the court.

Sec. 3. The Fulton superior court has one (1) judge who shall hold sessions in:

(1) the Fulton County courthouse in Rochester; or

(2) other places in the county as the Fulton County executive may provide.

Sec. 4. The Fulton superior court has the same jurisdiction as the Fulton circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Fulton superior court has a standard small claims and misdemeanor division.

Chapter 26. Gibson County

Sec. 1. Gibson County constitutes the sixty-sixth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Gibson superior court.

(b) The Gibson superior court is a standard superior court as described in IC 33-29-1.

(c) Gibson County comprises the judicial district of the court.

Sec. 3. The Gibson superior court has one (1) judge who shall hold sessions in:

(1) the Gibson County courthouse in Princeton; or

(2) other places in the county as the board of county commissioners of Gibson County may provide.

Sec. 4. The Gibson superior court has the same jurisdiction as the Gibson circuit court, except that only the circuit court has juvenile and probate jurisdiction.

Sec. 5. The Gibson superior court has a standard small claims and misdemeanor division.

Chapter 27. Grant County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Grant County constitutes the forty-eighth judicial circuit.

Sec. 3. Grant County constitutes the Grant superior court judicial district.

Sec. 4. (a) The term of the judge of the Grant superior court is six (6) years beginning on the first day of January following the judge's election.

(b) The voters of Grant County every six (6) years at a general election shall elect a person as judge of the court.

Sec. 5. The Grant superior court shall hold its sessions in Marion.

Sec. 6. The clerk of the Grant circuit court and the sheriff of Grant County shall serve as the clerk and sheriff of the Grant superior court.

Sec. 7. (a) The Grant superior court shall, during each calendar year, appoint two (2) persons of Grant County as jury commissioners. The law concerning jury commissioners appointed by the Grant circuit court govern the jury commissioners appointed by the Grant superior court.

(b) The jury commissioners shall prepare and draw the jury for the Grant superior court as is done by the jury commissioners for the Grant circuit court.

(c) The Grant superior court may order on what day jurors are summoned to attend the Grant superior court. The Grant superior court judge may order the selection and summoning of other jurors for the superior court when necessary. If, at any time, a jury is not drawn, the clerk of the court shall select from among the properly qualified residents of Grant County jurors for the term, who shall be summoned and considered in all things as the regular panel of the superior court.

Sec. 8. The clerk of the Grant circuit court shall enter all judgments rendered in, executions issued from, and papers filed in the Grant superior court in the same judgment and execution dockets, lis pendens records, and other dockets and records, except order books, as are used for judgments and executions and proceedings of the Grant circuit court. The clerk shall note whether any judgment or proceeding is a judgment or proceeding of the Grant circuit or Grant superior court.

Sec. 9. The Grant superior court has the same jurisdiction as the Grant circuit court.

Chapter 27.2. Grant County Superior Court No. 2

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. The Grant superior court No. 2, is established as a court of record. The court consists of one (1) judge, who shall hold office for a term of six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected

and qualified. Every six (6) years, the voters of Grant County shall elect at the general election a judge for the Grant superior court No. 2.

Sec. 3. Grant County constitutes the judicial district of the Grant superior court No. 2. The court shall have a seal containing the words "Grant Superior Court No. 2, of Grant County, Indiana".

Sec. 4. The judge of the Grant superior court No. 2 shall appoint a bailiff and an official court reporter for the court, to serve at the pleasure of the court. The judge shall fix their compensation as provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Grant County.

Sec. 5. (a) The Grant superior court No. 2, shall hold its sessions in a place to be determined by the county council of Grant County.

(b) The board of county commissioners of Grant County shall provide and maintain in the courthouse a suitable and convenient courtroom for the holding of court, together with a suitable and convenient jury room and offices for the judge and the official court reporter.

(c) The board of county commissioners shall provide all necessary furniture and equipment for the rooms and offices of the court, and all necessary dockets, books, and records for the court. The county council shall make the necessary appropriations from the general fund of the county to carry out this chapter.

Sec. 6. The Grant superior court No. 2 has the same jurisdiction as the Grant circuit court.

Sec. 7. The judge of the Grant superior court No. 2 may make and adopt rules and regulations for conducting the business of the Grant superior court No. 2. The judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt, and the power to enforce the judge's orders. The judge may administer oaths, solemnize marriages, take and certify acknowledgments of deeds, give all necessary certificates for the authentication of records and proceedings of the court, and make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Sec. 8. The judge of Grant superior court No. 2 shall, during the

last term beginning in each calendar year, appoint for the next calendar year two (2) persons, one (1) of whom must be a resident of the city in which terms of the court are held, as jury commissioners. The persons must be freeholders and voters of Grant County, be from different political parties, and have good character for intelligence, morality, and integrity. The persons must take an oath or affirmation in open court, to be entered of record in the order book of the court, in the following form:

"You do solemnly swear (or affirm) that you will honestly, and without favor or prejudice, perform the duties of jury commissioners during your term of office, that, in selecting persons to be drawn as jurors, you will select none but persons whom you believe to be of good repute for integrity and honesty, that you will select (none of whom you have been or may be requested to select), and that, in all of your selections, you will endeavor to promote only the impartial administration of justice."

The court shall instruct the jury commissioners concerning their duties.

Sec. 9. Laws governing the powers, duties, and procedure of jury commissioners in circuit courts, and the duties of the clerk of the court pertaining to the drawing and recording of names of prospective petit jurors, govern the jury commissioners appointed and the selection of petit jurors in the Grant superior court No. 2.

Chapter 27.3. Grant County Superior Court No. 3

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. (a) There is established a court of record to be known as the Grant superior court No. 3 (referred to as "the court" in this chapter).

(b) The court may have a seal containing the words "Grant Superior Court No. 3, Grant County, Indiana".

(c) Grant County comprises the judicial district of the court.

Sec. 3. (a) The court has one (1) judge who shall be elected at the general election every six (6) years in Grant County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as a judge of the court, a person must be:

(1) a resident of Grant County;

(2) less than seventy (70) years of age at the time of taking office; and

(3) admitted to the practice of law in Indiana.

Sec. 4. The court has the same jurisdiction as the Grant circuit court.

Sec. 5. The judge of the court:

(1) has the same powers relating to the conduct of the business of the court as the judges of the Grant circuit court, Grant superior court, and Grant superior court No. 2; and

(2) may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 6. (a) The judge of the court shall appoint a bailiff and an official court reporter for the court.

(b) The salaries of the bailiff and the official court reporter shall be:

(1) fixed in the same manner as the salaries of the bailiff and official court reporter for the Grant circuit court, Grant superior court, and Grant superior court No. 2; and

(2) paid monthly out of the treasury of Grant County as provided by law.

Sec. 7. The clerk of the court, under the direction of the judge of the court, shall provide:

(1) order books;

(2) judgment dockets;

(3) execution dockets;

(4) fee books; and

(5) other books for the court;

that shall be kept separately from the books and papers of other courts.

Sec. 8. (a) The court shall hold its sessions in:

(1) the Grant County courthouse in Marion; or

(2) other places in the county that the Grant County executive provides.

(b) The Grant County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.

(c) The Grant County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.

Sec. 9. (a) Each year the judge of the court shall appoint two (2) individuals who reside in Grant County to serve as jury commissioners for the court.

(b) Juries for the court shall be selected in the same manner as juries for the Grant circuit court.

(c) The grand jury selected for the Grant circuit court shall also serve as the grand jury for the court as may be necessary.

Sec. 10. (a) The judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 may, with the consent of the judge of the court, transfer any action or proceeding from the Grant circuit court, Grant superior court, or Grant superior court No. 2 to the court.

(b) The judge of the court may, with the consent of the judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2, transfer any action or proceeding from the court to the Grant circuit court, Grant superior court, or Grant superior court No. 2.

Sec. 11. (a) The judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 may, with the consent of the judge of the court, sit as judge of the court in any matter as if an elected judge of the court.

(b) The judge of the court may, with the consent of the judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2, sit as a judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 in any matter as if an elected judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2.

Sec. 12. (a) The court has a standard small claims and misdemeanor division.

(b) Notwithstanding IC 33-29-2-3, the small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars (\$6,000) in order to bring the claim within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which

the rent due at the time the action is filed does not exceed six thousand dollars (\$6,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

Chapter 28. Greene County

Sec. 1. Greene County constitutes the sixty-third judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Greene superior court.

(b) The Greene superior court is a standard superior court as described in IC 33-29-1.

(c) Greene County comprises the judicial district of the court.

Sec. 3. The Greene superior court has one (1) judge who shall hold sessions in:

(1) the Greene County courthouse in Bloomfield; or

(2) other places in the county as the Greene County executive may provide.

Sec. 4. The Greene superior court has the same jurisdiction as the Greene circuit court.

Sec. 5. The Greene superior court has a standard small claims and misdemeanor division.

Chapter 29. Hamilton County

Sec. 1. Hamilton County constitutes the twenty-fourth judicial circuit.

Sec. 2. (a) There are established five (5) superior courts of record to be known as the Hamilton superior court No. 1, the Hamilton superior court No. 2, the Hamilton superior court No. 3, the Hamilton superior court No. 4, and the Hamilton superior court No. 5.

(b) Except as otherwise provided in this chapter, each Hamilton superior court is a standard superior court as described in IC 33-29-1.

(c) Hamilton County constitutes the judicial district of each court.

Sec. 3. Each Hamilton superior court has one (1) judge who shall hold sessions in:

(1) the Hamilton County courthouse in Noblesville; or

(2) another convenient and suitable place provided by the board of county commissioners.

Sec. 4. In addition to the personnel that may be appointed under

IC 33-29-1-5, the judge of each Hamilton superior court may appoint other personnel necessary to facilitate and transact the business of the court. The other necessary personnel shall serve at the pleasure of the court, and the judge shall fix their compensation within the limits and in the manner provided by law concerning other personnel of the court. The compensation shall be paid monthly out of the treasury of Hamilton County in the manner provided by law.

Sec. 5. (a) The clerk of the Hamilton circuit court shall serve the Hamilton superior courts and shall be governed in all respects as provided by law.

(b) Jurors need not serve in the particular order in which they are drawn by the jury commissioners.

(c) Any judge of the Hamilton circuit or superior court may order the selection and summoning of other jurors for the circuit or superior court whenever necessary. Jurors shall serve all the Hamilton circuit and superior courts and shall serve any judge of the courts where juror service may be required.

Sec. 6. The judges of the Hamilton superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judges of the superior court.

Sec. 7. Each Hamilton superior court has concurrent jurisdiction, both original and appellate, with the Hamilton circuit court in all civil actions and proceedings at law and in equity, in all juvenile matters, and in all criminal and probate matters, actions, and proceedings of which the Hamilton circuit court has jurisdiction.

Sec. 8. The Hamilton superior court No. 4 and the Hamilton superior court No. 5 have a standard small claims and misdemeanor division.

Chapter 30. Hancock County

Sec. 1. Hancock County constitutes the eighteenth judicial circuit.

Sec. 2. (a) There are established two (2) superior courts of record to be known as the Hancock superior court No. 1 and the Hancock superior court No. 2.

(b) Except as otherwise provided in this chapter, each Hancock superior court is a standard superior court as described in

IC 33-29-1.

(c) Hancock county comprises the judicial district of each court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) Each of court consists of one (1) judge who holds office for six (6) years, beginning on January 1 after the judge's election and until the judge's successor is elected and qualified. Every six (6) years, the voters of Hancock County shall elect at the general election a judge for each superior court.

Sec. 4. Hancock superior court No. 1 and Hancock superior court No. 2 shall each hold sessions in the Hancock County courthouse in Greenfield.

Sec. 5. In addition to the powers described in IC 33-29-1-4, the judges of Hancock superior court No. 1 and Hancock superior court No. 2 may make and adopt rules and regulations for conducting the business of Hancock superior court No. 1 and Hancock superior court No. 2 and have all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and the enforcement of the courts' orders. The judge of each superior court may make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Sec. 6. Notwithstanding the provisions of any statute applying generally to superior or circuit courts, a judge of the:

- (1) Hancock circuit court;
- (2) Hancock superior court No. 1; or
- (3) Hancock superior court No. 2;

may transfer an action or proceeding from the Hancock circuit court or a Hancock superior court to the Hancock circuit court or another Hancock superior court with the consent of the judge of the court that would receive the action or proceeding.

Sec. 7. (a) Change of venue from the judge or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause is received by the clerk of the Hancock circuit court on change of venue from another county, the cause may be docketed in either the Hancock circuit court, Hancock superior court No. 1, or Hancock superior court No. 2, under rules adopted by the judges of the Hancock circuit court, Hancock superior court

No. 1, and Hancock superior court No. 2, unless otherwise provided in the order, report of striking, or entry made in the cause in the county from which the change of venue was taken, in which case it shall be docketed as provided in the entry, report, or order.

Sec. 8. Each superior court shall, during each calendar year, appoint for the next calendar year two (2) persons who are residents of Hancock County as jury commissioners. The law concerning jury commissioners appointed by the circuit court govern the jury commissioners as appointed by each superior court in all things, conditions, and qualifications. The jury commissioners shall prepare and draw the petit jury for each superior court as the law directs the same to be done by the jury commissioners for the circuit court. Each superior court is governed by the law in the making of appointments of the jury commissioners, and the clerk in issuing process for the jury and the sheriff in serving the process is governed by the law made for petit jurors in the circuit court. Each superior court may order on what day of the term the jurors are summoned to attend court and the judge of each court may order the selection and summoning of other jurors for the court whenever it is necessary.

Sec. 9. Hancock superior court No. 1 and Hancock superior court No. 2 have the same jurisdiction as the Hancock circuit court.

Sec. 10. Hancock superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 31. Harrison County

Sec. 1. Harrison County constitutes the third judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Harrison superior court.

(b) The Harrison superior court is a standard superior court as described in IC 33-29-1.

(c) Harrison County comprises the judicial district of the court.

Sec. 3. The Harrison superior court has one (1) judge who shall hold sessions in:

(1) the Harrison County courthouse in Corydon; or

(2) other places in the county as the Harrison County executive may provide.

Sec. 4. The Harrison superior court has the same jurisdiction as the Harrison circuit court.

Sec. 5. The Harrison superior court has a standard small claims

and misdemeanor division.

Chapter 32. Hendricks County

Sec. 1. Hendricks County constitutes the fifty-fifth judicial circuit.

Sec. 2. (a) There are established three (3) superior courts of record to be known as Hendricks superior court No. 1, Hendricks superior court No. 2, and Hendricks superior court No. 3.

(b) Except as otherwise provided in this chapter, each Hendricks superior court is a standard superior court as described in IC 33-29-1.

(c) Hendricks County comprises the judicial district of each court.

Sec. 3. Each Hendricks superior court has one (1) judge who shall hold sessions in the Hendricks County courthouse in Danville.

Sec. 4. Notwithstanding IC 33-29-1-9, an action, a cause, a case, a proceeding, or other matter filed in the Hendricks circuit court or a Hendricks superior court established by this chapter may be transferred by the court in which it is filed to either of the other courts by transferring all original papers filed with the consent of the court to which it is transferred.

Sec. 5. (a) Change of venue from the judge or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause is received by the clerk of the Hendricks circuit court on change of venue from another county, the cause shall be docketed on a rotating basis and assigned alternately to the Hendricks circuit court, Hendricks superior court No. 1, Hendricks superior court No. 2, and Hendricks superior court No. 3 unless otherwise provided in the order or entry made in such cause in the county from which such change of venue was taken, in which case it shall be docketed as provided in the entry or order.

Sec. 6. In addition to the powers described in IC 33-29-1-4, the judge of each Hendricks superior court may make and adopt rules and regulations for continuing business of the court. Each judge has the powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders. Each judge may make and execute certificates of qualification and moral character of persons

petitioning to be commissioned as notaries public.

Sec. 7. Notwithstanding IC 33-29-1-8, the judge of each Hendricks superior court may order the selection and summoning of other jurors for the judge's court when necessary. If at any time a jury shall for any reason be not drawn, then the clerk shall select from among the properly qualified residents of Hendricks County a jury, who shall be summoned and considered in all things as the regular panel of the court.

Sec. 8. (a) Each Hendricks superior court has original and concurrent jurisdiction with the Hendricks circuit court in all civil actions and proceedings at law and in equity, and actions for dissolution or annulment of marriage, and in all criminal cases and proceedings. However, none of the Hendricks superior courts have the jurisdiction of a juvenile court.

(b) Each Hendricks superior court has original and concurrent jurisdiction with the Hendricks circuit court in all appeals or reviews from boards of county commissioners or other executive or administrative agencies and all other appellate jurisdiction vested in the circuit court.

Sec. 9. Each Hendricks superior court has a standard small claims and misdemeanor division.

Chapter 33. Henry County

Sec. 1. Henry County constitutes the fifty-third judicial circuit.

Sec. 2. (a) There are established two (2) superior courts of record to be known as Henry superior court No. 1 and Henry superior court No. 2.

(b) Except as otherwise provided in this chapter, each Henry superior court is a standard superior court as described in IC 33-29-1.

(c) Henry county comprises the judicial district of each court.

Sec. 3. Each Henry superior court has one (1) judge who shall hold sessions in:

- (1)** the Henry County courthouse in New Castle; or
- (2)** other places in the county as the Henry County executive may provide.

Sec. 4. (a) Change of venue from the judge of a Henry superior court or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a case is received by the clerk of the Henry circuit court on change of venue from another county, the case shall be docketed in the Henry circuit court unless otherwise provided in the order or entry made in the cause in the county from which the change of venue was taken, in which case it shall be docketed as provided in the entry or order.

(c) The Henry circuit court may issue a general order transferring cases venued to the Henry circuit court from other counties to Henry superior court No. 1 or Henry superior court No. 2. A general order issued under this subsection may be amended by the circuit court.

Sec. 5. The judge of a Henry superior court may, with the consent of the judge of the other Henry superior court, sit as a judge of the other court in any manner as if elected as the judge of the other court.

Sec. 6. The Henry superior courts have the same jurisdiction as the Henry circuit court.

Sec. 7. Henry superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 34. Howard County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Howard County constitutes the sixty-second judicial circuit.

Sec. 3. There is established a court of record to be known as the Howard superior court. The court consists of two (2) judges each of whom holds office for six (6) years and until the judge's successor is elected and qualified.

Sec. 4. The judge for this court shall be elected every six (6) years at the general election. The term of office begins the first day of January following the judge's election, and continues for six (6) years and until the judge's successor is elected and qualified.

Sec. 5. The Howard superior court shall have a seal consisting of a circular disk containing the words "Howard Superior Court", an impression of which shall be spread of record upon the order book of the court.

Sec. 6. (a) The Howard superior court shall hold its sessions in:

- (1) the Howard County courthouse in Kokomo; or
- (2) another convenient and suitable place as the board of county commissioners of Howard County provides.

(b) The board of county commissioners shall provide and maintain a suitable and convenient courtroom for the holding of the court, with a suitable and convenient jury room and offices for the judge and the official court reporter, and the county council shall meet and appropriate all necessary funds.

Sec. 7. The judges of the superior court:

- (1) may make and adopt rules and regulations for conducting the business of the court;
- (2) has all the powers in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders; and
- (3) may administer oaths, solemnize marriages, take and certify acknowledgement of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 8. The judges of the superior court have the same power to grant restraining orders and injunctions, to issue writs of habeas corpus and of mandate and prohibition, to appoint receivers, masters and commissioners to convey real property, to grant commissions for the examination of witnesses, and to appoint other officers necessary to facilitate and transact the business of the court as is conferred on circuit courts.

Sec. 9. The clerk, under the direction of the judge, shall provide order books, judgment dockets, execution dockets, fee books, and such other books, papers, and records as are necessary for the court, and all books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 10. Each judge shall appoint a bailiff and court reporter whose duties, salary, and term shall be regulated in the same manner as is provided for the circuit court.

Sec. 11. Before the commencement of any term of the court, the clerk of the court and jury commissioners appointed by the judge of the circuit court of the county shall select a petit jury to serve at the next term of court. The officers in selecting, the clerk in issuing process for the jury, and the sheriff in serving the process are governed by the rules and regulations prescribed for the selection of petit jurors in the circuit court. The court may order on what day of the term the jurors are summoned to attend the court. The judge of the court may order the selecting and summoning of other

jurors for the court whenever it is necessary.

Sec. 12. Each judge may appoint additional officers and personnel as is necessary for the proper administration of the judge's duties as judge of the court.

Sec. 13. (a) The court shall adopt rules to provide for the operation and conduct of the court.

(b) The court shall designate one (1) of the judges as presiding judge who shall serve in that capacity for three (3) years, at the end of which another judge shall be selected to serve as presiding judge for the same period. The presiding judge shall ensure that the court operates efficiently and judicially.

Sec. 14. When any action of the entire court is required, the judges of the court shall act in concert. If there is a disagreement, the decision of the presiding judge controls.

Sec. 15. The judge of the circuit court may, with the consent of this court, transfer any action, cause, or proceeding filed and docketed in the circuit court to this court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with this court.

Sec. 16. Any judge of this court may, with the consent of the judge of the circuit court transfer any action, cause, or proceeding filed and docketed in this court to the circuit court by transferring all original papers and instruments filed in such action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with this court.

Sec. 17. The judge of the Howard circuit court may, with the court's permission, sit and act as a judge of this court in all matters pending before this court, without limitation and without any further order, in the same manner and stead as if the judge were a judge of this court, with all the rights and powers as if the judge were an elected judge of this court, including the right to act as presiding judge and otherwise participate in the organization and administration of this court.

Sec. 18. (a) The Howard superior court has original and concurrent jurisdiction with the circuit court in all civil actions and proceedings at law and in equity, probate and guardianship proceedings, actions for divorce, separation, annulment of marriage, and in all criminal cases and proceedings. However, the

superior court does not have the jurisdiction of a juvenile court or judge, as described in IC 33-23-7.

(b) The Howard superior court has original and concurrent jurisdiction in all appeals or reviews from boards of county commissioners, other executive or administrative agencies or inferior courts, and all other appellate jurisdictions vested in the circuit court.

Chapter 34.3. Howard County Superior Court No. 3

Sec. 1. (a) There is established a court of record to be known as the Howard superior court No. 3.

(b) Except as otherwise provided in this chapter, the Howard superior court No. 3 is a standard superior court as described in IC 33-29-1.

(c) Howard County comprises the judicial district of the court.

Sec. 2. The court has one (1) judge who shall hold sessions in:

- (1) the Howard County courthouse in Kokomo; or
- (2) other places in the county that the Howard County executive provides.

Sec. 3. The judge of the Howard superior court No. 3:

- (1) has the same powers relating to the conduct of the business of the court as the judges of the Howard circuit court, Howard superior court, and Howard superior court No. 2; and
- (2) may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 4. (a) The judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2 may, with the consent of the judge of the court, transfer any action or proceeding from the Howard circuit court, Howard superior court, or Howard superior court No. 2 to the court.

(b) The judge of the court may, with the consent of the judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2, transfer any action or proceeding from the court to the Howard circuit court, Howard superior court, or Howard superior court No. 2.

Sec. 5. (a) The judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2 may, with the consent of the judge of the court, sit as judge of the court in any matter as if an elected judge of the court.

(b) The judge of the court may, with the consent of the judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2, sit as a judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2 in any matter as if an elected judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2.

Sec. 6. The Howard superior court No. 3 has the same jurisdiction as the Howard circuit court.

Sec. 7. The Howard superior court No. 3 has a standard small claims and misdemeanor division.

Chapter 35. Huntington County

Sec. 1. Huntington County constitutes the fifty-sixth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Huntington superior court.

(b) Except as otherwise provided in this chapter, the Huntington superior court is a standard superior court as described in IC 33-29-1.

(c) Huntington County comprises the judicial district of the court.

Sec. 3. The Huntington superior court has one (1) judge who shall hold sessions in:

- (1) the Huntington County courthouse in Huntington; or
- (2) other places in the county as the Huntington County executive may provide.

Sec. 4. (a) In addition to the personnel appointed under IC 33-29-1-5, the Huntington superior court may appoint a referee and other personnel as the court determines necessary to facilitate and transact the business of the court.

(b) Salaries of the personnel described in this section shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Huntington circuit court. Their salaries shall be paid out of the treasury of Huntington County as provided by law.

Sec. 5. The Huntington superior court has the same jurisdiction as the Huntington circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 6. The Huntington superior court has a standard small claims and misdemeanor division.

Chapter 36. Jackson County

Sec. 1. Jackson County constitutes the fortieth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Jackson superior court.

(b) The Jackson superior court is a standard superior court as described in IC 33-29-1.

(c) Jackson County comprises the judicial district of the court.

Sec. 3. The Jackson superior court has one (1) judge who shall hold sessions in Seymour.

Sec. 4. The Jackson superior court has the same jurisdiction as the Jackson circuit court.

Sec. 5. The Jackson superior court has a standard small claims and misdemeanor division.

Chapter 37. Jasper County

Sec. 1. (a) Jasper County constitutes the thirtieth judicial circuit.

(b) The Jasper circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as Jasper superior court No. 1.

(b) Except as otherwise provided in this chapter, the Jasper superior court No. 1 is a standard superior court as described in IC 33-29-1.

(c) Jasper County comprises the judicial district of the court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) The Jasper superior court has one (1) judge, who shall be elected at the general election every six (6) years in Jasper County. The judge's term begins January 1 following the judge's election and ends December 31 following the election of the judge's successor.

Sec. 4. The judge of the Jasper superior court No. 1 shall hold sessions in the Jasper County courthouse in Rensselaer or in other places in the county as the board of county commissioners of Jasper County may provide.

Sec. 5. (a) The judge of Jasper superior court No. 1 shall adopt rules to provide for the administration of the Jasper superior court, including rules governing the following:

(1) Legal representation for indigents.

(2) Budgetary matters of the Jasper superior court.

(3) Operation of the probation department.

(4) Employment and management of court personnel.

(5) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The judge of the Jasper superior court shall file with the division of state court administration a copy of the rules adopted under this section.

Sec. 6. (a) In addition to the personnel described in IC 33-29-1-5, the judge of the Jasper superior court No. 1 may, subject to the budget approved for the court by the fiscal body of Jasper County, employ personnel necessary for the proper administration of the court.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and

(2) are subject to the rules concerning employment and management of court personnel adopted by the court under section 5 of this chapter.

Sec. 7. The Jasper superior court No. 1 has the same jurisdiction as the Jasper circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 8. The Jasper superior court No. 1 has a standard small claims and misdemeanor division.

Chapter 38. Jay County

Sec. 1. Jay County constitutes the fifty-eighth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Jay superior court.

(b) The Jay superior court is a standard superior court as described in IC 33-29-1.

(c) Jay County comprises the judicial district of the court.

Sec. 3. The Jay superior court has one (1) judge who shall hold sessions in:

(1) the Jay County courthouse in Portland; or

(2) other places in the county as the Jay County executive may provide.

Sec. 4. The Jay superior court has the same jurisdiction as the Jay circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Jay superior court has a standard small claims and misdemeanor division.

Chapter 39. Jefferson County

Sec. 1. Jefferson County and Switzerland County constitute the fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Jefferson superior court.

(b) The Jefferson superior court is a standard superior court as described in IC 33-29-1.

(c) Jefferson County comprises the judicial district of the court.

Sec. 3. The Jefferson superior court has one (1) judge who shall hold sessions in Madison.

Sec. 4. The Jefferson superior court is a court of general jurisdiction.

Sec. 5. The Jefferson superior court has a standard small claims and misdemeanor division.

Chapter 40. Jennings County

Sec. 1. (a) Jennings County constitutes the eighty-sixth judicial circuit.

(b) The Jennings circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as the Jennings superior court.

(b) The Jennings superior court is a standard superior court as described in IC 33-29-1.

(c) Jennings County comprises the judicial district of the court.

Sec. 3. The Jennings superior court has one (1) judge who shall hold sessions in:

(1) the Jennings County courthouse in Vernon; or

(2) another place in the county as the Jennings County executive may provide.

Sec. 4. The Jennings superior court has the same jurisdiction as the Jennings circuit court.

Sec. 5. The Jennings superior court has a standard small claims and misdemeanor division.

Chapter 41. Johnson County

Sec. 1. Johnson County constitutes the eighth judicial circuit.

Sec. 2. (a) The judges of the Johnson circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-23-5

to serve both the circuit and superior courts.

(b) The magistrate continues in office until removed by the judges of the Johnson circuit and superior courts.

Sec. 3. (a) There are established three (3) courts of record to be known as the Johnson superior court No. 1, Johnson superior court No. 2, and Johnson superior court No. 3.

(b) Except as otherwise provided in this chapter, each Johnson superior court is a standard superior court as described in IC 33-29-1.

(c) Johnson County comprises the judicial district of each court.

Sec. 4. (a) The Johnson superior court No. 1 and Johnson superior court No. 2 each have one (1) judge who shall hold sessions in the Johnson County courthouse in Franklin.

(b) The Johnson superior court No. 3 has one (1) judge who shall hold sessions in a place to be determined and provided by the board of county commissioners of Johnson County.

Sec. 5. The judge of a Johnson superior court may, with the consent of the judge of another Johnson superior court, transfer any action or proceeding from the superior court to the other superior court.

Sec. 6. The judge of a Johnson superior court may, with the consent of the judge of another Johnson superior court, sit as the judge of the other superior court in any matter as if the judge of the superior court were an elected judge of the other superior court.

Sec. 7. Each Johnson superior court has concurrent jurisdiction, both original and appellate, with the Johnson circuit court in all civil actions and proceedings at law and in equity, and in all criminal and probate matters, actions, and proceedings of which the Johnson circuit court has jurisdiction.

Sec. 8. The Johnson superior court has a standard small claims and misdemeanor division.

Chapter 42. Knox County

Sec. 1. Knox County constitutes the twelfth judicial circuit.

Sec. 2. (a) There are established two (2) courts of record to be known as Knox superior court No. 1 and Knox superior court No. 2.

(b) Except as otherwise provided in this chapter, each Knox superior court is a standard superior court as described in

IC 33-29-1.

(c) Knox County constitutes the judicial district of the court.

Sec. 3. Each Knox superior court has one (1) judge who shall hold sessions:

(1) in the Knox County courthouse in Vincennes; or

(2) at other places in the county as the county executive may provide.

Sec. 4. The judge of the Knox circuit court may, with the consent of the judge of a superior court, transfer any action or proceeding from the circuit court to the superior court. The judge of a superior court may, with the consent of the judge of the circuit or other superior court, transfer any action or proceeding from that superior court to the circuit or other superior court.

Sec. 5. The judge of a superior court may, with the consent of the judge of the circuit or other superior court, sit as a judge of the circuit or other superior court in any matter as if the judge of the superior court was an elected judge of the circuit or other superior court.

Sec. 6. (a) Except as provided in subsection (b), the Knox superior courts have the same jurisdiction as the Knox circuit court.

(b) The Knox superior courts have exclusive juvenile jurisdiction.

Sec. 7. Each Knox superior court has a standard small claims and misdemeanor division.

Chapter 43. Kosciusko County

Sec. 1. Kosciusko County constitutes the fifty-fourth judicial circuit.

Sec. 2. (a) There is established a court of record, which consists of three (3) judges, to be known as the "Superior Court of Kosciusko County". The court shall have a seal containing the words "Superior Court No. 1 of Kosciusko County, Indiana", "Superior Court No. 2 of Kosciusko County, Indiana", or "Superior Court No. 3 of Kosciusko County, Indiana".

(b) Except as otherwise provided in this chapter, the superior court of Kosciusko county is a standard superior court as described in IC 33-29-1.

(c) Kosciusko County comprises the judicial district of the court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) A judge of the superior court of Kosciusko county shall hold office for a term of six (6) years, beginning on the first day of January after election, and until a successor is elected and qualified. Every six (6) years, the voters of Kosciusko County shall elect at the general election judges for the superior court.

Sec. 4. The superior court of Kosciusko County shall hold its sessions:

- (1) in the Kosciusko County courthouse in Warsaw; or
- (2) at another place in Warsaw as the board of county commissioners may provide.

Sec. 5. Notwithstanding IC 33-29-1-8, the judges of the superior court of Kosciusko County may order on what day of the term the jurors are summoned to attend the superior court and may order the selecting and summoning of other jurors for the superior court whenever necessary.

Sec. 6. The superior court of Kosciusko County has the same jurisdiction as the circuit court.

Sec. 7. Superior court No. 2 of Kosciusko County and superior court No. 3 of Kosciusko County each have a standard small claims and misdemeanor docket.

Chapter 44. LaGrange County

Sec. 1. LaGrange County constitutes the thirty-fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the LaGrange superior court.

(b) The LaGrange superior court is a standard superior court as described in IC 33-29-1.

(c) LaGrange County comprises the judicial district of the court.

Sec. 3. The court has one (1) judge who shall hold sessions in:

- (1) the LaGrange County courthouse in the city of LaGrange; or
- (2) other places in the county as the LaGrange County executive may provide.

Sec. 4. The LaGrange superior court has the same jurisdiction as the LaGrange circuit court.

Sec. 5. The LaGrange superior court has a standard small claims and misdemeanor division.

Chapter 45. Lake County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. (a) Lake County constitutes the thirty-first judicial circuit.

(b) The judge of the Lake circuit court may appoint two (2) full-time magistrates under IC 33-23-5 to serve the Lake circuit court. One (1) of the magistrates shall serve the domestic relations counseling bureau established under IC 31-12-2. The judge shall specify the duties of a magistrate appointed under this subsection. A magistrate continues in office until removed by the judge of the circuit court.

Sec. 3. There is established a superior court in Lake County (referred to as "the court" in this chapter).

Sec. 4. The court shall be known as the superior court of Lake County.

Sec. 5. The court shall have a seal consisting of a circular disk containing the words "superior court of Lake County, Indiana" and "seal" and a design as the court may determine, an impression of which shall be spread of record upon the order book of the court.

Sec. 6. (a) The court has:

- (1) the same jurisdiction as the Lake circuit court in all civil and probate cases and matters whether original or appellate;**
- (2) original exclusive jurisdiction of all felony cases;**
- (3) original concurrent jurisdiction of all misdemeanor cases, infraction cases, and ordinance violation cases;**
- (4) appellate jurisdiction in criminal cases as is vested in the circuit court; and**
- (5) original exclusive juvenile jurisdiction.**

(b) Notwithstanding IC 31-30-1-2, the juvenile court has exclusive jurisdiction over a child who:

- (1) has been taken into custody in the county; and**
- (2) has allegedly committed an act that would be a misdemeanor traffic offense if committed by an adult.**

Sec. 7. (a) The court is a court of record.

(b) The court's judgments, decrees, orders, and proceedings:

- (1) have the same force and effect; and**
- (2) shall be enforced in the same manner;**

as those of the Lake circuit court.

Sec. 8. (a) The court:

- (1) may make and adopt rules and regulations for conducting**

the business of the court; and

(2) has all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders.

(b) The judges may administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 9. The court has the same power to grant restraining orders and injunctions, to issue writs of habeas corpus, to appoint receivers, masters, and commissioners to convey real property, and to grant commissions for the examination of witnesses, and to appoint other officers necessary to facilitate and transact the business of the court as is conferred on circuit courts or the judges of the circuit courts in counties where there is no criminal court.

Sec. 10. (a) The judges of the criminal division may appoint two (2) full-time magistrates under IC 33-23-5 to serve the criminal division. A magistrate appointed under this subsection continues in office until removed by the judges of the criminal division.

(b) The judges of the civil division may appoint two (2) full-time magistrates under IC 33-23-5 to serve the civil division. A magistrate appointed under this subsection continues in office until removed by the judges of the civil division.

Sec. 11. (a) The judge of division No. 1, division No. 2, and division No. 3 of the court may each appoint one (1) full-time magistrate under IC 33-23-5 to serve as the court requires. A magistrate appointed under this section:

(1) must be a resident of the county; and

(2) continues in office until removed by the judge that the magistrate serves.

(b) The appointment of a magistrate under this section must be in writing.

(c) The judge may specifically determine the duties of the magistrate within the limits established under IC 33-23-5.

(d) The county executive shall provide and maintain suitable facilities for the use of the magistrate, including necessary furniture and equipment.

(e) The court shall employ administrative staff necessary to support the functions of the magistrates.

(f) The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

(g) A magistrate is entitled to annual compensation as established under IC 33-23-5-10. The state shall pay the salary set under IC 33-23-5-10.

Sec. 12. (a) The senior judge of each division may appoint the number of bailiffs, court reporters, probation officers, and other personnel as the senior judge believes is necessary to judicially and efficiently facilitate and transact the business of the division. All appointments shall be made without regard to the political affiliation of the appointees. The salaries of the court personnel shall be fixed and paid as provided by law. The officers and persons appointed shall:

- (1) perform the duties prescribed by the senior judge of each respective division; and
- (2) serve at the pleasure of the senior judge.

(b) The court shall appoint an administrative officer who has the duties the court determines are necessary to ensure the efficient operation of the court. The court may appoint the number of deputy administrative officers as the court considers necessary to facilitate and transact the business of the court. Any appointment of an administrative officer or deputy administrative officer shall be made without regard to the political affiliation of the appointees. The salaries of the administrative officer and any deputy administrative officer shall be fixed by the court, to be paid out of the county treasury by the county auditor, upon the order of the court, and entered of record. Any administrative officer or deputy administrative officer appointed by the court shall:

- (1) operate under the jurisdiction of the chief judge; and
- (2) serve at the pleasure of the chief judge.

(c) The court may appoint part-time juvenile referees and magistrates as provided by IC 31-31-3.

(d) The court may appoint the number of probate commissioners provided for by IC 29-2-2. The probate commissioners shall be vested with the powers and duties provided by IC 29.

Sec. 13. The court shall hold continuous sessions in places in Lake County as the court periodically determines. The board of county commissioners of Lake County shall:

(1) provide and maintain:

(A) suitable and convenient courtrooms for the holding of the court, together with suitable and convenient jury rooms and offices for the judges and other court officers and personnel; and

(B) other facilities as may be necessary; and

(2) provide all necessary furniture and equipment for rooms and offices of the court.

Sec. 14. The clerk of the Lake circuit court, under the direction of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books, papers, and records that are necessary for the court, and all books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 15. The court shall maintain an order book at each location of the court and the order books may be signed on behalf of the court by any of the judges of the court, and the signature constitutes authentication of the actions of each of the judges in the court.

Sec. 16. All Indiana laws and rules adopted by the supreme court governing the circuit courts apply to the superior court. However:

(1) a person other than a judge of the superior court of Lake County may not serve as a special judge when a change of judge is requested from the superior court of Lake County;

(2) a judge of the superior court of Lake County may not receive compensation other than regular salary for serving as a special judge where the change of venue from the judge was granted by the superior court of Lake County;

(3) the statutes and rules governing the records, procedures, and practices of county courts apply to the county division of the court; and

(4) there is no change of venue from the county as of right in cases in the county division of the court.

Sec. 17. Any party may appeal from any order or judgment of the court in any case where an appeal may be had from a similar order or judgment of the circuit court.

Sec. 18. The process of the court shall have the seal affixed and be attested, directed, served, and returned, and be in the form as

is provided for process issuing from the circuit court.

Sec. 19. (a) The court, by rules adopted by the court, shall designate one (1) of the judges as chief judge and shall fix the time that the chief judge presides. The chief judge is responsible for the efficient operation and conduct of the court.

(b) The judges of each division of the court, in accordance with the rules adopted by the judges of that division, shall designate a judge as the senior judge of that division and fix the time that the senior judge serves.

(c) The senior judge of each division shall report to the chief judge as to how the division should best judicially operate.

Sec. 20. When an action of the entire court is required, the judges of the court shall act in concert. If there is a disagreement, the decision of a majority of the judges controls. However, if the judges are evenly divided, the decision joined by the chief judge controls.

Sec. 21. (a) The court is divided into civil (including probate), criminal, county, and juvenile divisions. The work of the court shall be divided among the divisions by the rules of the court.

(b) Seven (7) judges comprise the civil division. Four (4) judges comprise the criminal division. Four (4) judges comprise the county division. One (1) judge comprises the juvenile division. However, the court by rule may alter the number of judges assigned to a division other than the county division of the court if the court determines that the change is necessary for the efficient operation of the court.

(c) The court by rule may reassign a judge of the court from one (1) division to another if the court determines that the change is necessary for the efficient operation of the court. The court by rule shall establish a rotation schedule providing for the rotation of judges through the various divisions. The rotation schedule may be used if a judge determines that an emergency exists. However, a senior judge of any division or a judge of the county division may not be reassigned or rotated to another division under this subsection.

(d) The chief judge of the court may assign a judge in one (1) division of the court to hear a case originating in another division of the court, and may reassign cases from one (1) judge to another, if the chief judge determines that the change is necessary for the

efficient operation of the court.

Sec. 22. The judge of the Lake circuit court may, with the consent of the court, transfer any action, cause, or proceeding filed and docketed in the Lake circuit court to the court by transferring all original papers and instruments filed in the action, cause, or proceeding and without further transcript, to be redocketed and disposed of as if originally filed with the court.

Sec. 23. Any judge of the court may, with the consent of the judge of the Lake circuit court, transfer any civil action, cause or proceeding filed and docketed in the court to the Lake circuit court by transferring all original papers and instruments filed in such action, cause, or proceeding without further transcript thereof to be redocketed and disposed of as if originally filed with the Lake circuit court.

Sec. 24. The judge of the Lake circuit court may sit as a judge of the court, with the court's permission, in the civil division, without limitation and without any further order, in the same manner as if the circuit court judge were a judge of the court with all the rights and powers as if the circuit court judge were a duly appointed judge of the court.

Sec. 25. (a) Unless the judge is a judge of the county division, at the general election immediately preceding the expiration of a judge's extended term the question of that judge's retention in office or rejection shall be submitted to the electorate of Lake County under section 42 of this chapter. Thereafter, unless rejected by the electorate, each judge shall serve successive terms as provided in section 41(b) of this chapter.

(b) A judge of the county division may serve a successive term if elected to serve a successive term under section 43 of this chapter.

Sec. 26. The superior court of Lake County consists of sixteen (16) judges plus the Lake circuit court judge if the circuit court judge chooses to sit on the superior court of Lake County.

Sec. 27. (a) There is established a judicial nominating commission for the superior court of Lake County, the functions, responsibilities, and procedures of which are set forth in sections 28 through 37 of this chapter.

(b) The board of county commissioners of Lake County shall provide all facilities, equipment, supplies, and services as may be

necessary for the administration of the duties imposed upon the commission. The members of the commission shall serve without compensation. However, the board of county commissioners of Lake County shall reimburse members of the commission for actual expenses incurred in performing their duties.

Sec. 28. (a) The judicial nominating commission (referred to in this chapter as the commission) consists of nine (9) members, the majority of whom form a quorum. The chief justice of the supreme court (or a justice of the supreme court or judge of the court of appeals designated by the chief justice) shall be a member and shall act as chairman.

(b) Under sections 30 and 31 of this chapter, those admitted to the practice of law and residing in Lake County shall elect four (4) of their members to serve on the commission, subject to the following:

(1) At least one (1) attorney member must be a minority individual (as defined in IC 20-12-21.7-4).

(2) Two (2) attorney members must be women.

(3) Two (2) attorney members must be men.

(c) The Lake County board of commissioners shall appoint four (4) nonattorney citizens to the commission, subject to the following:

(1) Each of the three (3) county commissioners shall appoint one (1) nonattorney member who is a resident of the appointing commissioner's district.

(2) After each county commissioner has had the opportunity to make the county commissioner's appointment, the fourth nonattorney member must be appointed by a majority vote of the Lake County board of commissioners.

(3) At least one (1) nonattorney member must be a minority individual (as defined in IC 20-12-21.7-4).

(4) Two (2) nonattorney members must be women.

(5) Two (2) nonattorney members must be men.

(6) Not more than two (2) of such appointees may be from the same political party.

The appointees must reflect the composition of the community. If the Lake County board of commissioners fails to appoint any of the nonattorney commission members within the time required to do so in section 29 of this chapter, the appointment shall be made by the chief justice of the supreme court.

(d) A member of the commission, other than a judge or justice, may not hold any other elected public office. A member may not hold an office in a political party or organization. A nonattorney member of the commission may not hold an elected or salaried public office. A nonattorney member may not be an employee of the state or of a political subdivision of the state.

(e) A member of the commission is not eligible for appointment to a judicial office in Lake County if the member is a member of the commission and for three (3) years thereafter.

(f) If any member of the commission, other than a judge or justice, terminates the member's residence in Lake County, the member is considered to have resigned from the commission.

Sec. 29. (a) The Lake County board of commissioners shall appoint the four (4) nonattorney members of the commission.

(b) One (1) month before the expiration of a term of office of a nonattorney commissioner, an appointment or reappointment shall be made in accordance with section 28 of this chapter. All appointments made by the Lake County board of commissioners shall be certified to the secretary of state, the clerk of the supreme court, and the clerk of Lake circuit court within ten (10) days after the appointment.

(c) Each nonattorney member shall be appointed for a term of four (4) years.

(d) Whenever a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the Lake County board of commissioners in writing of such fact. Vacancies in the office of nonattorney commissioners shall be filled by appointment of the Lake County board of commissioners within sixty (60) days after notice of the vacancy is received. The term of the nonattorney commissioner appointed is for the unexpired term of the member whose vacancy the new member has filled.

Sec. 30. (a) Those admitted to the practice of law and residing in Lake County (referred to in this chapter as attorney electors) shall elect four (4) of their number to the commission. To be eligible for the office of attorney commissioner, a person must be on the current annual list of attorneys certified to the clerk of the supreme court and must be a resident of Lake County. The term of office of each elected attorney member is four (4) years,

commencing on the first day of October following the attorney member's election. The election day is the date on which the ballots are counted and, for purposes of this section, is the first Tuesday in September 1995, and every four (4) years thereafter. Thereafter, during the month before the expiration of each attorney commissioner's term of office, an election shall be held to fill the succeeding four (4) year term of office.

(b) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the commission shall be filled for the unexpired term of the member creating the vacancy by a special election.

Sec. 31. The attorney members of the commission shall be elected by the following process:

(1) The clerk of the Lake circuit court shall, at least ninety (90) days before the date of election, notify all attorneys in Lake County of the upcoming election by mail, informing them that nominations must be made to the clerk of the circuit court at least sixty (60) days before the election. The clerk shall secure a list of all attorneys and their correct addresses from the clerk of the supreme court.

(2) A nomination in writing, accompanied by a signed petition of ten (10) attorney electors, and the written consent of the qualified nominee shall be filed by any attorney elector or group of attorney electors residing in Lake County, by mail or otherwise, in the office of the clerk of the Lake circuit court at least sixty (60) days before the election.

(3) The clerk of the Lake circuit court shall prepare and print ballots containing the names and residential addresses of all attorney nominees whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election.

(A) The ballot shall read:

**"SUPERIOR COURT OF LAKE COUNTY
NOMINATING COMMISSION BALLOT**

To be cast by individuals residing in Lake County and admitted to the practice of law in Indiana. Vote for not more than four (4) of the following candidates for the term commencing ____.

(Name)(Address)

(Name)(Address)
(etc.) (etc.)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the clerk of the Lake circuit court not later than _____.

DESTROY BALLOT IF NOT USED".

(B) The four (4) nominees receiving the most votes whose election does not conflict with the requirements of section 28(b) of this chapter shall be elected.

(4) The clerk shall also supply with each ballot distributed by the clerk a certificate, to be completed and signed and returned by the attorney elector voting such ballot, certifying that the attorney elector is admitted to the practice of law in Indiana, that the attorney elector resides in Lake County, and that the attorney elector voted the ballot returned. A ballot not accompanied by the signed certificate of the voter shall not be counted.

(5) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot is to be placed. This envelope shall not be opened until the counting of the ballots.

(6) The clerk of the Lake circuit court shall mail a ballot and its accompanying material to all qualified attorney electors at least two (2) weeks before the date of election.

(7) Upon receiving the completed ballots and the accompanying certificate, the clerk shall ensure that the certificates have been completed in compliance with this chapter. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(8) The clerk of the Lake circuit court, with the assistance of the Lake County election board, shall open and canvass all ballots after 4 p.m. on the day of election in the office of the clerk of the Lake circuit court. Ballots received after 4 p.m. may not be counted unless the chairman of the judicial nominating commission orders an extension of time because of extraordinary circumstances. Upon canvassing the ballots,

the clerk shall place all ballots back in their package. These, along with the certificates, shall be retained in the clerk's office for six (6) months, and the clerk shall permit no one to inspect them except upon an order of the supreme court.

(9) In any election held for selection of attorney members of the commission, in case two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give the nominee a plurality, the canvasser shall resolve the tie by lot and the winner of the lot is considered to be elected.

Sec. 32. After:

(1) the attorney members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state, clerk of the supreme court, and clerk of the Lake circuit court as this chapter provides;

the clerk of the Lake circuit court shall by regular mail notify the members of the commission of their election or appointment and shall notify the chairman of the judicial nominating commission of the same.

Sec. 33. A member of the judicial nominating commission may serve until the member's successor is appointed or elected. An attorney commissioner or a nonattorney commissioner is not eligible for more than two (2) successive reelections or reappointments.

Sec. 34. (a) When a vacancy occurs in the superior court of Lake County, not including its county division, the clerk of the court shall promptly notify the chairman and each member of the commission of the vacancy. The chairman shall call a meeting of the commission within ten (10) days following the notice. The commission shall submit its nominations of three (3) candidates for each vacancy and certify them to the governor as promptly as possible, and not later than sixty (60) days after the vacancy occurs. When it is known that a vacancy will occur at a definite future date within the term of the governor then serving, but the vacancy has not yet occurred, the clerk shall notify the chairman and each member of the commission immediately of the forthcoming vacancy and the commission may within fifty (50) days of the notice of the vacancy make its nominations and submit

to the governor the names of three (3) persons nominated for the forthcoming vacancy.

(b) Meetings of the commission shall be called by its chairman, or if the chairman fails to call a necessary meeting, upon the call of any five (5) members of the commission. The chairman, whenever the chairman considers a meeting necessary, or upon the request by any five (5) members of the commission for a meeting, shall give each member of the commission at least five (5) days written notice by mail of the date, time, and place of every meeting unless the commission at its previous meeting designated the date, time, and place of its next meeting.

(c) Meetings of the commission are to be held at the Lake County government center in Crown Point or another place, as the circuit court clerk of Lake County may arrange, at the direction of the chairman of the commission.

(d) The commission may act only at a public meeting. IC 5-14-1.5 applies to meetings of the commission. The commission may not meet in executive session under IC 5-14-1.5-6.1 for the consideration of a candidate for judicial appointment.

(e) The commission may act only by the concurrence of a majority of its members attending a meeting. Five (5) members constitute a quorum at a meeting.

(f) The commission may adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties. These rules must provide for the receipt of public testimony concerning the qualifications of candidates for nomination to the governor.

Sec. 35. In selecting the three (3) nominees to be submitted to the governor, the commission shall comply with the following requirements:

- (1) The commission shall submit only the names of the three (3) most highly qualified candidates from among all those eligible individuals considered. To be eligible for nomination as a judge of the superior court of Lake County, a person must be domiciled in the county of Lake, a citizen of the United States, and admitted to the practice of law in Indiana.
- (2) In abiding by the mandate in subdivision (1), the commission shall evaluate in writing each eligible individual on the following factors:

- (A) Law school record, including any academic honors and achievements.**
 - (B) Contribution to scholarly journals and publications, legislative drafting, and legal briefs.**
 - (C) Activities in public service, including:**
 - (i) writings and speeches concerning public or civic affairs that are on public record, including but not limited to campaign speeches or writings, letters to newspapers, and testimony before public agencies;**
 - (ii) government service;**
 - (iii) efforts and achievements in improving the administration of justice; and**
 - (iv) other conduct relating to the individual's profession.**
 - (D) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.**
 - (E) Probable judicial temperament.**
 - (F) Physical condition, including age, stamina, and possible habitual intemperance.**
 - (G) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate, patience, decisiveness, and dedication.**
 - (H) Membership on boards of directors, financial interests, and any other consideration that might create conflict of interest with a judicial office.**
 - (I) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.**
- (3) These written evaluations shall not be made on an individual until the individual states in writing that the individual desires to hold a judicial office that is or will be created by vacancy.**
- (4) The political affiliations of any candidate may not be considered by the commission in evaluating and determining which eligible candidates shall be recommended to the governor for a vacancy on the superior court of Lake County.**
- (5) In determining which eligible candidates are recommended to the governor, the commission shall consider that racial and gender diversity enhances the quality of the**

judiciary.

Sec. 36. (a) The commission shall submit with the list of three (3) nominees to the governor its written evaluation of the qualifications of each candidate.

(b) The names of the nominees and the written evaluations are public records that may be inspected and copied under IC 5-14-3.

(c) Every eligible candidate whose name was not submitted to the governor shall have access to any evaluation on the candidate by the commission and the right to make such evaluation public.

(d) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1 are excepted from public disclosure, unless the records are prepared for use in the consideration of a candidate for judicial appointment.

Sec. 37. (a) After the commission has nominated and submitted to the governor the names of three (3) persons for appointment to fill a vacancy of the superior court of Lake County:

(1) any name may be withdrawn for cause considered by the commission to be of a substantial nature affecting the nominee's qualifications to hold office; and

(2) another name may be substituted;

before the appointment is made to fill the vacancy.

(b) If a nominee dies or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee.

(c) If two (2) or more vacancies exist, the commission shall nominate and submit to the governor a list of three (3) different persons for each of the vacancies. The commission may, before an appointment is made, withdraw the lists of nominations, change the names of any persons nominated from one (1) list to another, and resubmit them as changed, or may substitute a new name for any of those previously nominated.

Sec. 38. (a) A vacancy occurring on the court shall be filled by appointment of the governor from a list of three (3) nominees presented to the governor by the judicial nominating commission. If the governor fails to make an appointment from the list within sixty (60) days after the day it is presented to the governor, the appointment shall be made by the chief justice or the acting chief justice of the supreme court from the same list, or altered list as

provided for in section 37 of this chapter.

(b) The governor shall make all appointments to the court without regard to the political affiliation of any of the three (3) nominees submitted to the governor. In the interest of justice, the governor shall consider only those qualifications of the nominees included in section 35 of this chapter.

Sec. 39. A vacancy occurring on the superior court county division must be filled by appointment of the governor. In the interests of justice, the governor shall consider only those qualifications listed in section 35 of this chapter.

Sec. 40. An appointment by the governor or chief justice, as required by section 38 or 39 of this chapter, to the superior court of Lake County takes effect immediately if a vacancy exists at the date of the appointment. The appointment takes effect on the date the vacancy is created if a vacancy does not exist at the date of appointment.

Sec. 41. (a) Each judge appointed under section 38 of this chapter serves an initial term, which begins on the effective date of the appointment of the judge and continues through December 31 in the year of the general election that follows the expiration of two (2) years after the effective date of the judge's appointment.

(b) Unless rejected by the electorate of Lake County under section 42 of this chapter, a judge of the civil division, criminal division, and juvenile division shall serve successive six (6) year terms.

(c) The term of office of a judge of the county division of the superior court is six (6) years. A judge appointed under section 39 of this chapter to fill a vacancy in the county division of the Lake superior court serves for the unexpired term of the vacating judge and until the appointed judge's successor is elected and qualified.

(d) Each six (6) year term begins on the first day of January following the expiration of the preceding initial term or the preceding six (6) year term, as the case may be, and continues for six (6) years.

Sec. 42. (a) The question of the retention in office or rejection of each judge of the following divisions of the superior court of Lake County shall be submitted to the electorate of Lake County at the general election immediately preceding expiration of the term of the judge:

- (1) Civil division.**
- (2) Criminal division.**
- (3) Juvenile division.**

(b) At the general election, the question of the retention in office or rejection of a judge described in subsection (a) shall be submitted to the electorate of Lake County in the form prescribed by IC 3-11-2 and must state "Shall Judge (insert name) of the superior court of Lake County be retained in office for an additional term?".

(c) If a majority of the ballots cast by the electors voting on any question is "Yes", the judge whose name appeared on the question shall be approved for a six (6) year term beginning January 1 following the general election as provided in section 41(b) of this chapter.

(d) If a majority of the ballots cast by the electors voting on any question is "No", the judge whose name appeared on the question shall be rejected. The office of the rejected judge is vacant on January 1 following the rejection. The vacancy shall be filled by appointment by the governor under section 38 of this chapter.

(e) The Lake County election board shall submit the question of the retention in office or rejection of a judge described in subsection (a) to the electorate of Lake County. The submission of the question is subject to the provisions of IC 3 that are not inconsistent with this chapter.

(f) If a judge who is appointed does not desire to serve any further term, the judge shall notify in writing the clerk of the Lake circuit court at least sixty (60) days before any general election, in which case the question of that judge's retention in office or rejection shall not be submitted to the electorate, and the office becomes vacant at the expiration of the term.

Sec. 43. A judge of the county division of the Lake superior court shall be elected under IC 3-10-2-11 by the electorate of Lake County.

Sec. 44. (a) A judge of the superior court may not during a term of office as judge of the superior court do any of the following:

- (1) Engage in the practice of law.**
- (2) Run for elective office, unless the elective office is that of judge of the county division of the Lake superior court.**
- (3) Take part in any political campaign, unless the judge is**

running for election as judge of the county division and the political campaign is conducted for that office.

(b) Failure to comply with this section is sufficient cause for the commission on judicial qualifications to recommend to the supreme court that the judge be censured or removed.

(c) A political party may not directly or indirectly campaign for or against a judge subject to retention or rejection under this chapter.

Sec. 45. (a) The clerk of the Lake circuit court and the jury commissioners appointed by the Lake circuit court shall serve as jury commissioners for the court. The issuing and servicing of process shall be governed by the procedure specified in IC 33-28-4-3 for the circuit court. The selection of jurors may be made either:

- (1) as specified for the circuit court in IC 33-28-4-3; or
- (2) from a list of persons in the county who are at least eighteen (18) years of age and who hold a valid license issued by the bureau of motor vehicles under IC 9-24.

(b) Jurors need not serve in any particular order in which they are drawn by the jury commissioners.

(c) Any judge of the court may order the selection and summoning of other jurors for the court whenever necessary. Jurors summoned under this subsection shall serve the entire court and before any judge of the court where their service may be required.

(d) The contractor operating a license branch under IC 9-16 for Lake County shall, not later than January 1 of each year, provide to the jury commissioners of the Lake superior courts a list of all persons at least eighteen (18) years of age who hold a valid license issued by the bureau of motor vehicles.

Chapter 46. LaPorte County

Sec. 1. (a) LaPorte County constitutes the thirty-second judicial circuit.

(b) The judges of the LaPorte circuit court and LaPorte superior court No. 4 may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the LaPorte circuit court and LaPorte superior court No.

4.

Sec. 2. (a) There are established four (4) courts of record to be known as the LaPorte superior courts No. 1, No. 2, No. 3, and No.

4.

(b) Except as otherwise provided in this chapter, the LaPorte superior courts are standard superior courts as described in IC 33-29-1.

(c) LaPorte County comprises the judicial district of the courts.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) Each LaPorte superior court has one (1) judge, who shall be elected at the general election every six (6) years in LaPorte County. Each judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(c) To be eligible to hold office as judge of any of the courts, a person must:

(1) be a resident of LaPorte County; and

(2) be admitted to the bar of Indiana.

Sec. 4. LaPorte superior court No. 1 shall hold its sessions in Michigan City. LaPorte superior courts No. 2, No. 3, and No. 4 shall hold sessions in places in the county as the LaPorte County executive may provide.

Sec. 5. (a) The judges of the court may, by a vote of the majority of the judges, appoint one (1) full-time magistrate under IC 33-23-5.

(b) The magistrate appointed under subsection (a) continues in office until removed by the vote of a majority of the judges of the court.

Sec. 6. Notwithstanding IC 33-29-1-9, the judge of the LaPorte circuit court may, with the consent of the judge of the receiving court, transfer any action or proceeding from the circuit court to any of the LaPorte superior courts. The judge of any of the LaPorte superior courts may, with consent of the judge of the circuit or another LaPorte superior court, transfer any action or proceeding from the LaPorte superior court to the circuit court or to another LaPorte superior court. However, a judge of LaPorte superior courts No. 3 and No. 4 may not transfer any action or proceeding docketed in the small claims and misdemeanor division to the LaPorte circuit court or LaPorte superior court No. 1 or No.

2.

Sec. 7. The courts have the same jurisdiction as the LaPorte circuit court.

Sec. 8. LaPorte superior courts No. 3 and No. 4 each have a standard small claims and misdemeanor division.

Chapter 47. Lawrence County

Sec. 1. Lawrence County constitutes the eighty-first judicial circuit.

Sec. 2. (a) There is established a court of record in Lawrence County to be known as the Lawrence superior court.

(b) The Lawrence superior court has two (2) judges.

(c) Except as otherwise provided in this chapter, the Lawrence superior court is a standard superior court as described in IC 33-29-1.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) A judge of the Lawrence superior court shall be elected every six (6) years at the general election. The term of office begins the first day of January following the judge's election and continues for six (6) years and until the judge's successor is elected and qualified.

Sec. 4. The Lawrence superior court shall hold its sessions in:

(1) the Lawrence County courthouse in Bedford; or

(2) another convenient and suitable place as the board of county commissioners of Lawrence County provides.

Sec. 5. Each judge of the court may make and adopt rules and regulations for conducting the business of the court.

Sec. 6. In addition to the personnel appointed under IC 33-29-1-5, each judge may appoint additional officers and personnel necessary for the proper administration of the judge's duties as judge of the Lawrence superior court.

Sec. 7. Notwithstanding IC 33-29-1-8, the Lawrence superior court may order the day of the term jurors are summoned to attend the court. The judge of the Lawrence superior court may order the selecting and summoning of other jurors when necessary.

Sec. 8. (a) Except as provided in subsection (b), the Lawrence superior court has original and concurrent jurisdiction with the Lawrence circuit court in the following:

(1) All civil actions and proceedings at law and in equity.

(2) Actions for divorce, separation, or annulment of marriage.

(3) All criminal cases and proceedings.

(b) The Lawrence superior court does not have the following:

(1) Jurisdiction of a juvenile court.

(2) Jurisdiction in probate and other matters provided for by IC 29-1. However, the court has concurrent jurisdiction with the circuit court as to civil actions by or against personal representatives.

(c) The Lawrence superior court has original and concurrent jurisdiction in all appeals or reviews from boards of county commissioners or other executive or administrative agencies or inferior courts and other appellate jurisdiction vested in the circuit court.

Sec. 9. The Lawrence superior court has a standard small claims and misdemeanor division.

Chapter 48. Madison County

Sec. 1. Madison County constitutes the fiftieth judicial circuit.

Sec. 2. (a) There is established a court of record in Madison County to be known as the Madison superior court.

(b) The Madison superior court has three (3) judges.

(c) Except as otherwise provided in this chapter, the Madison superior court is a standard superior court as described in IC 33-29-1.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) A judge of the Madison superior court shall hold office for six (6) years and until the judge's successor has been elected and qualified.

Sec. 4. The Madison superior court may designate by rule one (1) of the judges as chief judge and fix the time the chief judge presides. The chief judge shall be responsible for the operation and conduct of the court.

Sec. 5. The Madison superior court shall hold its sessions in the Madison County courthouse or its replacement in Anderson.

Sec. 6. The judges of the Madison superior court may make rules for conducting the business of the court.

Sec. 7. In addition to the personnel appointed under IC 33-29-1-5, the Madison superior court may appoint probation officers and other personnel, including an administrative officer, necessary to transact the business of the court. The salaries of the personnel shall be fixed and paid as provided by law. However, if

the salaries of any of the personnel are not provided by law, the amount and time of payment of the salaries shall be fixed by the court, to be paid out of the county treasury by the county auditor upon the order of the court, and be entered of record. The officers and persons appointed shall perform duties as prescribed by the court. Personnel appointed by the court serve at the pleasure of the court.

Sec. 8. Notwithstanding IC 33-29-1-8, any judge of the Madison superior court may order the selection and summoning of jurors for the court whenever necessary. Jurors shall serve the entire court and before any judge of the court where their service may be required.

Sec. 9. (a) The Madison superior court shall provide that all cases filed in the court be assigned to a particular docket, such as civil, probate, criminal, juvenile, or small claims. The responsibility for processing the cases on each of these dockets shall be assigned to the judges of the court under the rules adopted by the court.

(b) The chief judge may reassign the court dockets from one (1) judge to another and may alter the number of judges responsible for the various dockets where efficiency demands.

Chapter 49. Marion County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Marion County constitutes the nineteenth judicial circuit.

Sec. 3. As used in this chapter, "city-county council" refers to the Indianapolis, Marion County city-county council.

Sec. 4. As used in this chapter, "clerk" refers to the clerk of the Marion superior court.

Sec. 5. As used in this chapter, "court" refers to the Marion superior court.

Sec. 6. (a) There is established a superior court in Marion County. The court consists of thirty-two (32) judges.

(b) To be qualified to serve as a judge of the court, a person must be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 is filed:

- (1)** a resident of Marion County; and
- (2)** an attorney who has been admitted to the bar of Indiana for at least five (5) years.

(c) During the term of office, a judge of the court must remain a resident of Marion County.

Sec. 7. The court must be named the Marion superior court.

Sec. 8. The court must have a seal consisting of a circular disk containing the words, "Marion Superior Court", "Indiana", and "Seal", and a design as the court may determine, an impression of which must be spread of record upon the order book of the court.

Sec. 9. The court has the following jurisdiction:

(1) Concurrent and coextensive jurisdiction with the Marion circuit court in all cases and upon all subject matters, including civil, criminal, juvenile, probate, and statutory cases and matters, whether original or appellate.

(2) Original and exclusive jurisdiction in all matters pertaining to the following:

(A) The probate and settlement of decedents' estates, trusts, and guardianships.

(B) The probate of wills.

(C) Proceedings to resist the probate of wills.

(D) Proceedings to contest wills.

(E) The appointment of guardians, assignees, executors, administrators, and trustees.

(F) The administration and settlement of:

(i) estates of protected persons (as defined in IC 29-3-1-13) and deceased persons;

(ii) trusts, assignments, adoptions, and surviving partnerships; and

(iii) all other probate matters.

(3) Original jurisdiction of all violations of Indiana law. Whenever jurisdiction is by law conferred on a small claims court, the court has the appellate jurisdiction provided by law.

(4) Original and exclusive juvenile jurisdiction.

Sec. 10. The court is a court of record. The court's judgments, decrees, orders, and proceedings have the same effect and shall be enforced in the same manner as those of the circuit court.

Sec. 11. (a) The court may adopt rules for conducting the business of the court. Except as provided in subsection (b), in all matters action of the court may only be taken by a vote of a majority of the judges sitting at the time the vote is taken.

(b) Action of the court to remove the presiding judge or either associate presiding judge may only be taken by a vote of two-thirds

(2/3) of the judges sitting at the time the vote is taken.

(c) The court has all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempts, and enforcement of the court's orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and to give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 12. The court may do the following:

- (1) Grant restraining orders and injunctions.
- (2) Issue writs of habeas corpus.
- (3) Appoint receivers, masters, and commissioners to:
 - (A) convey real property;
 - (B) grant commissions for the examination of witnesses; and
 - (C) appoint other officers necessary to transact the business of the court.

Sec. 13. (a) Each judge of the court shall be elected for a term of six (6) years that begins January 1 after the year of the judge's election and continues through December 31 in the sixth year. The judge shall hold office for the six (6) year term or until the judge's successor is elected and qualified. A candidate for judge shall run at large for the office of judge of the court and not as a candidate for judge of a particular room or division of the court.

(b) Beginning with the primary election held in 2000 and every six (6) years thereafter, a political party may nominate not more than nine (9) candidates for judge of the court. The candidates shall be voted on at the general election. Other candidates may qualify under IC 3-8-6 to be voted on at the general election.

(c) The names of the party candidates nominated and properly certified to the Marion County election board, along with the names of other candidates who have qualified, shall be placed on the ballot at the general election in the form prescribed by IC 3-11-2. Beginning with the 2000 general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for seventeen (17) candidates for judge of the court.

(d) The candidates for judge of the court receiving the highest number of votes shall be elected to the vacancies. The names of the candidates elected as judges of the court shall be certified to the

county election board as provided by law.

Sec. 14. (a) Not more than thirty (30) days after taking the oath of office, the judges shall meet and designate three (3) of the judges as the executive committee for administrative purposes. The executive committee shall be selected by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken. If all vacancies cannot be filled by a two-thirds (2/3) vote, vacancies may be filled by such other method as provided by court rule. The executive committee is responsible for the operation and conduct of the court. A member of the executive committee shall serve in the capacity provided by rules adopted by the court under section 11 of this chapter. A member of the executive committee serves for a term of two (2) years beginning on the date of the member's election. Any or all of the members elected to the executive committee may be reelected. Of the three (3) judges elected to the executive committee, not more than two (2) may be members of the same political party.

(b) One (1) of the three (3) judges elected to the executive committee shall be elected as presiding judge and two (2) of the three (3) judges elected to the executive committee shall be elected as associate presiding judges. Each judge who is a member of the executive committee has an equal vote in all matters pertaining to the business of the court when an action requires a majority vote. Any action taken by the executive committee may be overruled by a vote of two-thirds (2/3) of all the judges sitting at the time the vote is taken. The physical reassignment of a judge to a different courtroom requires a unanimous vote of the executive committee. The executive committee shall assign cases, offices, and courtrooms for trial judges or reassignment of newly filed cases in the interests of the speedy, economical, and uniform disposition of cases. All matters of trial dates, continuances, and subpoenas used for trial shall be determined by the trial judge in accordance with rules of the superior court. The executive committee shall perform other duties as determined by rules of the court.

(c) The court shall, by rules of the court, divide the work of the court into various divisions, including but not limited to the following:

- (1)** Civil.
- (2)** Criminal.

(3) Probate.

(4) Juvenile.

(d) The work of each division shall be allocated by the rules of the court.

(e) The judges shall be assigned to various divisions or rooms as provided by rules of the court. Whenever possible, an incumbent judge shall be allowed the option of remaining in a particular room or division. Whenever any action of the court is required, the judges of the court shall act in concert, by a vote under section 11 of this chapter. The court shall keep appropriate records of rules, orders, and assignments of the court.

Sec. 15. (a) The executive committee, with the approval of two-thirds (2/3) of the judges, shall determine the number of hearing judges, commissioners, referees, bail commissioners, court reporters, probation officers, and other personnel required to efficiently serve the court. The salaries of the personnel shall be fixed and paid as provided by law.

(b) The administrative officers shall perform the duties prescribed by the executive committee and shall operate under the jurisdiction of the executive committee and serve at the pleasure of the executive committee.

(c) The executive committee shall see that the court at all times is amply provided with supplies and sufficient clerical and other help, including extra reporters or bailiffs, when needed. Each judge shall appoint the judge's court reporters, bailiffs, secretary, commissioners, and clerks. In addition to the specified duties of this subsection, the executive committee shall exercise any other powers and duties that may be assigned to the executive committee by an order book entry signed by a two-thirds (2/3) majority of the judges. At least once each month, a general term conference of all superior division judges must be held, at which the presiding judge shall preside. A special order book must be kept for the court in which shall be entered all special rules, proceedings, and similar matters. During an absence or a vacation of a judge who is a member of the executive committee, the senior superior court judge shall act for the absent member, if necessary.

Sec. 16. (a) An appointed probate hearing judge or probate commissioner shall be vested by the judge of the probate division with suitable powers for the handling of all probate matters of the

court, including the following:

- (1) Fixing of all bonds.**
- (2) Auditing accounts of estates, guardianships, and trusts.**
- (3) Accepting reports, accounts, and settlements filed in the court.**
- (4) Appointing personal representatives, guardians, and trustees.**
- (5) Probating wills.**
- (6) Taking or hearing evidence on or concerning matters described in this subsection or any other probate, guardianship, or trust matters in litigation before the court.**
- (7) Enforcing court rules.**
- (8) Making reports to the court concerning the judge's or commissioner's doings in the proceedings described in this subsection, including reports concerning the commissioner's findings and conclusions regarding the proceedings.**

However, all matters handled by a hearing judge or commissioner under this subsection are under the final jurisdiction and decision of the judge of the probate division.

(b) A juvenile referee appointed by the judge of the juvenile division shall have all suitable powers for the handling of the juvenile matters of the court, including the following:

- (1) Fixing of bonds.**
- (2) Taking and hearing evidence on or concerning juvenile matters in litigation before the court.**
- (3) Enforcing court rules.**
- (4) Making reports to the court concerning the juvenile referee's handling of proceedings of the juvenile division of the court.**

However, all matters handled by a juvenile referee under this subsection are under final jurisdiction and decision of the judge or judges of the juvenile division designated by rules of the court.

(c) A bail commissioner may fix bonds, including the following:

- (1) Determining whether an individual is to be released on the individual's own recognizance in criminal cases and proceedings.**
- (2) Making reports to the court concerning the bail commissioner's activities.**

All matters handled by a bail commissioner under this subsection

are under the final jurisdiction and decision of the judge or judges of the criminal division as designated by rules of the court.

(d) For any of the purposes specified in this section, a probate hearing judge, probate commissioner, referee, or bail commissioner may do the following:

- (1) Summon witnesses to testify before the probate hearing judge, probate commissioner, referee, or bail commissioner.
- (2) Administer oaths and take acknowledgments in connection with duties.
- (3) Administer oaths and take acknowledgments generally.

(e) A master commissioner appointed by the court under this section has the powers and duties prescribed for a magistrate under IC 33-23-5-5 through IC 33-23-5-9. A master commissioner shall report the findings in each of the matters before the master commissioner in writing to the judge or judges of the division to which the master commissioner is assigned or as designated by rules of the court.

Sec. 17. (a) The court shall hold sessions in:

- (1) the city-county building in Indianapolis; and
- (2) other places in Marion County as the court determines.

(b) The city-county council shall:

- (1) provide and maintain in the building and at other places in Marion County as the court may determine suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, and offices for the judges, other court officers and personnel, and other facilities as are necessary; and
- (2) provide all necessary furniture and equipment for rooms and offices of the court.

Sec. 18. The clerk, under the direction of the court, shall provide:

- (1) order books;
- (2) judgment dockets;
- (3) execution dockets;
- (4) fee books; and
- (5) other books, papers, and records;

as are necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 19. The court shall maintain a single order book for each division or room of the court that may be signed on behalf of the court by the judge of that division or room of the court. The signature of the judge authenticates the actions of the court.

Sec. 20. All laws of Indiana and rules adopted by the supreme court governing the circuit court in matters of pleadings, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court apply to and govern the court.

Sec. 21. (a) The clerk of the Marion circuit court and the jury commissioners appointed by the Marion circuit court shall serve as clerk and as jury commissioners for the court and shall be governed in all respects as provided by law.

(b) Jurors do not have to serve in the order in which the jurors are drawn by the jury commissioners.

(c) Any judge of the court may order the selection and summoning of other jurors for the court whenever other jurors may be necessary. Jurors shall serve the entire court and before any judge of the court where the jurors' services may be required.

Sec. 22. A party may appeal an order or a judgment of the court in any case where an appeal may be had from a similar order or judgment of the circuit court.

Sec. 23. The process of the court must have the seal affixed. The process must be attested, directed, served, returned, and in the form as provided for process issuing from the circuit court.

Sec. 24. The judge of the Marion circuit court may, with the consent of the court acting through the superior court presiding judge under rules adopted by the court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the court by transferring all original papers and instruments filed in that action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the court.

Sec. 25. The presiding judge may, with the consent of the judge of the Marion circuit court and under rules adopted by the court, transfer any action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the Marion circuit court.

Sec. 26. The judge of the Marion circuit court may sit as a judge of the court, with the court's permission, in all matters pending before the court, without limitation and without any further order, in the same manner as a judge of the court with all the rights and powers of an elected judge of the court.

Sec. 27. Each judge, before entering upon the duties of office, shall take and subscribe the following oath or affirmation:

"I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Indiana and that I will faithfully discharge the duties of judge of the superior court of Marion County to the best of my ability."

The oath shall be filed with the clerk of the county.

Sec. 28. The court shall take judicial notice of all matters of which courts of general jurisdiction of Indiana are required to take judicial notice. The court shall also take judicial notice of all general ordinances of each city or municipality located in the county.

Sec. 29. (a) When an appeal is taken from the court in criminal cases or proceedings under IC 34-28-5 (or IC 34-4-32 before its repeal), the amount of costs charged must be certified as a part of the transcript and charged as part of the costs in the court to which the appeal or proceeding is taken. The costs are in addition to any other clerk's service fee required by law.

(b) All costs charged in the court hearing or in the court trying an appeal must be charged and adjudged upon the hearing or trial in the appeal against a defendant who is convicted or who pleads guilty.

(c) In an appeal under this section, the defendant shall pay a transcript fee of thirty-five dollars (\$35) before the appeal may be transferred from the superior court.

Sec. 30. (a) A judge remains qualified to hold office as long as the judge:

- (1)** remains fair and impartial in judicial functions;
- (2)** maintains a high standard of morality in dealings, public and private;
- (3)** remains physically and mentally capable of performing all the functions and duties of the office of judge; and
- (4)** continues to reside in Marion County.

(b) Complaints against a judge must be forwarded to the commission on judicial qualifications as provided in IC 33-38-13 by any judge of the superior court.

(c) A judge of the court must retire upon becoming seventy-five (75) years of age. If the judge wishes to retire before the judge's term has ended or upon reaching the mandatory retirement age, the judge shall provide written notice to the presiding judge of the court. The judge shall continue to hold office until a successor has been appointed and qualified.

(d) When a vacancy occurs in the court by death, removal, retirement, or for any other reason, the governor shall appoint a successor judge who serves the balance of the term of the vacating judge. The successor judge must be a member of the same political party as the judge who is to be succeeded.

Sec. 31. (a) The presiding judge may appoint one (1) full-time magistrate under IC 33-23-5.

(b) A magistrate appointed under this section may only hear criminal proceedings.

(c) The magistrate continues in office until removed by the presiding judge.

Sec. 32. (a) In addition to the magistrate appointed under section 31 of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint four (4) full-time magistrates under IC 33-23-5.

(b) Not more than two (2) of the magistrates appointed under this section may be of the same political party.

(c) The magistrates continue in office until removed by the vote of a majority of the judges of the court.

(d) A party to a superior court proceeding that has been assigned to a magistrate appointed under this section may request that an elected judge of the superior court preside over the proceeding instead of the magistrate to whom the proceeding has been assigned. Upon a request made under this subsection by either party, the magistrate to whom the proceeding has been assigned shall transfer the proceeding back to the superior court judge.

Sec. 33. (a) The executive committee elected under section 14 of this chapter shall employ a court administrator to administer the business activities of the court. A court administrator is subject to rules of the court and oversight by the executive committee.

(b) The salary of the court administrator shall be set by the executive committee but may not be more than eighty percent (80%) of the salary of a superior court judge.

Sec. 34. (a) The clerk of the superior court shall furnish the following:

(1) All blanks, forms, and papers required for use in all criminal cases and in all civil actions involving actions by a city or town for violations of municipal penal ordinances.

(2) All books, papers, stationery, furniture, and other equipment and supplies necessary for keeping the records of the proceedings in all rooms of the superior court and for the transaction of all business of the court.

(3) Necessary computerization of court records.

(b) The materials required under this section shall be furnished at the expense of the county.

(c) The presiding judge of the court, by an order entered on the court records signed by the presiding judge, shall determine and prescribe the forms of the following:

(1) All summonses, notices, subpoenas, warrants, affidavits, complaints, writs, and all other papers and anything else required to be used in the cases relating to violations of criminal statutes or municipal ordinances.

(2) All other books, records, papers, and documents to be used by the court and by the officers of the court and the prosecutors.

In the absence of an order under this subsection, those charged with the duty of prosecuting cases involving either criminal offenses or the violation of municipal ordinances may adopt, change, order, and use all necessary forms and instruments as conform substantially to the practice and procedure applicable.

Chapter 50. Marshall County

Sec. 1. Marshall County constitutes the seventy-second judicial circuit.

Sec. 2. (a) There are established two (2) courts of record to be known as the Marshall superior court No. 1 and the Marshall superior court No. 2.

(b) The Marshall superior courts are standard superior courts as described in IC 33-29-1.

(c) Marshall County comprises the judicial district of each

court.

Sec. 3. The Marshall superior court No. 1 has one (1) judge who shall hold sessions in the Marshall County courthouse in Plymouth. The Marshall superior court No. 2 has one (1) judge who shall hold sessions in a place in the county as the board of county commissioners may provide.

Sec. 4. The Marshall superior courts have the same jurisdiction as the Marshall circuit court.

Sec. 5. The Marshall superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 51. Martin County

Sec. 1. (a) Martin County constitutes the ninetieth judicial circuit.

(b) The Martin circuit court has a standard small claims and misdemeanor division.

Chapter 52. Miami County

Sec. 1. Miami County constitutes the fifty-first judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Miami superior court.

(b) The Miami superior court is a standard superior court as described in IC 33-29-1.

(c) Miami County comprises the judicial district of the court.

Sec. 3. The court has one (1) judge who shall hold sessions in:

- (1)** the Miami County courthouse in Peru; or
- (2)** other places in the county as the board of county commissioners of Miami County may provide.

Sec. 4. The Miami superior court has the same jurisdiction as the Miami circuit court.

Sec. 5. The Miami superior court has a standard small claims and misdemeanor division.

Chapter 53. Monroe County

Sec. 1. (a) Monroe County constitutes the tenth judicial circuit.

(b) There are seven (7) judges of the Monroe circuit court.

Sec. 2. (a) The Monroe circuit court is a court of general jurisdiction and shall maintain the following dockets:

- (1)** Small claims.
- (2)** Minor offenses and violations.
- (3)** Criminal.
- (4)** Juvenile.

(5) Civil.

(6) Probate.

(b) The assignment of judges of the court to the dockets specified in subsection (a) must be by rule of the court.

Sec. 3. The judges of the Monroe circuit court shall select from among themselves a presiding judge of the court.

Sec. 4. When any action of the entire court is required, including selection of a presiding judge under section 3 of this chapter and adoption of rules under section 6 of this chapter, the judges of the court shall act in concert. If the judges disagree, the decision of the majority of the judges controls. If the judges are evenly divided, the decision joined by the presiding judge controls.

Sec. 5. In accordance with rules adopted by the judges of the court under section 6 of this chapter, the presiding judge shall do the following:

(1) Ensure that the court operates efficiently and judicially under rules adopted by the court.

(2) Annually submit to the fiscal body of Monroe County a budget for the court, including amounts necessary for:

(A) the operation of the circuit's probation department;

(B) the defense of indigents; and

(C) maintaining an adequate law library.

(3) Make the appointments or selections required of a circuit or superior court judge under the following statutes:

IC 8-4-21-2

IC 11-12-2-2

IC 16-22-2-4

IC 16-22-2-11

IC 16-22-7

IC 20-4-1

IC 20-4-8

IC 20-4-15-2

IC 20-5-20-4

IC 20-5-23-1

IC 20-14-10-10

IC 21-5-11-8

IC 21-5-12-8

IC 36-9

IC 36-10.

- (4) Make appointments or selections required of a circuit or superior court judge by any other statute, if the appointment or selection is not required of the court because of an action before the court.

Sec. 6. (a) The judges of the court shall adopt rules to provide for the administration of the court, including rules governing the following:

- (1) Allocation of case load.
- (2) Legal representation for indigents.
- (3) Budgetary matters of the court.
- (4) Operation of the probation department.
- (5) Term of administration of the presiding judge.
- (6) Employment and management of court personnel.
- (7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The court shall file with the division of state court administration a copy of the rules adopted under this section.

Sec. 7. (a) Each judge of the court may, subject to the budget approved for the court by the fiscal body of Monroe County, employ personnel necessary for the proper administration of the court.

(b) Personnel employed under this section:

- (1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and
- (2) are subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.

Sec. 8. (a) The court may appoint a court administrator subject to the budget approved for the court by the fiscal body of Monroe County.

(b) A court administrator appointed under this section is subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.

Chapter 54. Montgomery County

Sec. 1. Montgomery County constitutes the twenty-second judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Montgomery superior court.

(b) The Montgomery superior court is a standard superior court as described in IC 33-29-1.

(c) Montgomery County comprises the judicial district of the court.

Sec. 3. The court has one (1) judge who shall hold sessions in:

- (1) the Montgomery County courthouse in Crawfordsville; or
- (2) other places in the county as the Montgomery County executive may provide.

Sec. 4. The Montgomery superior court has the same jurisdiction as the Montgomery circuit court.

Chapter 55. Morgan County

Sec. 1. The following do not apply to this chapter:

- (1) IC 33-29-1-3.
- (2) IC 33-29-1-4.
- (3) IC 33-29-1-8.
- (4) IC 33-29-1-9.
- (5) IC 33-29-1-10.

Sec. 2. Morgan County constitutes the fifteenth judicial circuit.

Sec. 3. There is established a court of record to be known as the Morgan superior court.

Sec. 4. (a) Except as otherwise provided in this chapter, the Morgan superior court is a standard superior court as described in IC 33-29-1.

(b) Morgan County constitutes the judicial district of the court.

Sec. 5. (a) The Morgan superior court has three (3) judges. Each judge holds office for a term of six (6) years beginning on the first day of January after election and until the judge's successor is elected and qualified.

(b) Every six (6) years, the voters of Morgan County shall elect at the general election the judges for the superior court.

Sec. 6. The Morgan superior court shall hold its sessions in the Morgan County courthouse in Martinsville.

Sec. 7. (a) Each judge of the Morgan superior court may make and adopt rules and regulations for conducting the business of the Morgan superior court.

(b) Each judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders.

(c) Each judge of the court may administer oaths, solemnize

marriages, take and certify acknowledgments of deeds, give all necessary certificates for the authentication of records and proceedings of the court, and make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Sec. 8. The judges of the Morgan circuit and Morgan superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judges of the circuit and superior courts.

Sec. 9. The Morgan superior court concurrent jurisdiction, both original and appellate, with the Morgan circuit court in all civil actions and proceedings at law and in equity and in all criminal and probate matters, actions, and proceedings of which the Morgan circuit court has jurisdiction. However, the Morgan circuit court and one (1) judge of the Morgan superior court have exclusive jurisdiction in all juvenile matters, actions, and proceedings.

Sec. 10. The Morgan superior court has a standard small claims and misdemeanor division.

Chapter 56. Newton County

Sec. 1. (a) Newton County constitutes the seventy-ninth judicial circuit.

(b) The Newton circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as the Newton superior court.

(b) The Newton superior court is a standard superior court as described in IC 33-29-1.

(c) Newton County comprises the judicial district of the court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) The Newton superior court has one (1) judge, who shall be elected at the general election every six (6) years in Newton County. The judge's term begins January 1 following the judge's election and ends December 31 following the election of the judge's successor.

(c) To be eligible to hold office as judge of the Newton superior court, a person must:

- (1)** be a resident of Newton County; and
- (2)** be admitted to the bar of Indiana.

Sec. 4. The Newton superior court shall hold its sessions in:

- (1) the Newton County courthouse in Kentland; or**
- (2) other places in the county as the board of county commissioners of Newton County may provide.**

Sec. 5. The Newton superior court has the same jurisdiction as the Newton circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 6. The Newton superior court has a standard small claims and misdemeanor division.

Chapter 57. Noble County

Sec. 1. Noble County constitutes the thirty-third judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Noble superior court.

(b) The Noble superior court is a standard superior court as described in IC 33-29-1.

(c) Noble County comprises the judicial district of the courts.

Sec. 3. The Noble superior court has two (2) judges who shall hold sessions in:

- (1) the Noble County courthouse in Albion; or**
- (2) other places in the county as the board of county commissioners of Noble County may provide.**

Sec. 4. The Noble superior court has the same jurisdiction as the Noble circuit court.

Sec. 5. The Noble superior court has a standard small claims and misdemeanor division.

Chapter 58. Ohio County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Dearborn County and Ohio County constitute the seventh judicial circuit.

Sec. 3. (a) There is established a court of record to be known as the Ohio and Switzerland superior court.

(b) The court may have a seal containing the words "Ohio and Switzerland Superior Court, Ohio and Switzerland Counties, Indiana".

(c) Ohio and Switzerland counties comprise the judicial district of the court.

Sec. 4. The Ohio and Switzerland superior court has one (1) judge, who shall be elected at the general election every six (6) years in Ohio and Switzerland counties. The judge's term begins

January 1 following the judge's election and ends December 31 following the election of the judge's successor.

Sec. 5. The judge of the Ohio and Switzerland superior court has the same powers relating to the conduct of the business of the court as a judge of a circuit court under IC 33-28-1.

Sec. 6. The judge of the Ohio and Switzerland superior court is entitled to the salary set out in IC 33-38-5. The salary shall be paid in the same manner as the salary of a circuit court judge, and the part of the salary to be paid by the counties shall be paid by Ohio and Switzerland counties in equal amounts.

Sec. 7. The Ohio and Switzerland superior court shall hold its sessions in the courthouse in Rising Sun and in Vevay or in other places in the county as the board of county commissioners of Ohio County or Switzerland County may provide. Each board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as necessary. Each county council shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.

Sec. 8. The judge of the Ohio and Switzerland superior court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for a circuit court. Their salaries shall be paid monthly out of the treasuries of Ohio and Switzerland counties as provided by law.

Sec. 9. The clerk of the Ohio and Switzerland superior court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which must be kept separately from the books and papers of other courts.

Sec. 10. The Ohio and Switzerland superior superior court shall, during each calendar year, appoint one (1) resident of Ohio County and one (1) resident of Switzerland County to act as jury commissioners for the superior court. The jury commissioners shall:

- (1) be appointed by a judge of the superior court;
- (2) be qualified to act as jury commissioners; and
- (3) prepare and draw the jury for the superior court;

in the same manner as is required for jury commissioners of circuit

courts in Ohio and Switzerland counties. The clerks of the circuit courts of Ohio and Switzerland counties and the sheriffs of Ohio and Switzerland counties shall issue and serve process for the superior court in relation to jury selection and summoning in the same manner as for those circuit courts. The superior court may order the time when jurors must attend court and may order the selection and summoning of other jurors for the superior court whenever necessary.

Sec. 11. The judge of the circuit courts in Ohio or Switzerland counties may, with the consent of the judge of the Ohio and Switzerland superior court, transfer any action or proceeding from the circuit court that originated in Ohio County or Switzerland County to the Ohio and Switzerland superior court. The judge of the Ohio and Switzerland superior court may, with consent of the judge of such a circuit court, transfer any action or proceeding from the Ohio and Switzerland superior court to the circuit court in the county where that action or proceeding originated.

Sec. 12. The judge of the circuit court in Ohio County or Switzerland County may, with the consent of the judge of the Ohio and Switzerland superior court, sit as a judge of the court in any matter over which the judge would have had jurisdiction as circuit court judge, as if the judge was an elected judge of the court. The judge of the Ohio and Switzerland superior court may, with consent of the judge of such a circuit court, sit as a judge of a circuit court in Ohio County or Switzerland County in any matter over which the judge would have jurisdiction as superior judge, as if the judge was an elected judge of that circuit court.

Sec. 13. The Ohio and Switzerland superior court has the same jurisdiction as a circuit court under IC 33-28-3 and IC 33-28-1-2.

Sec. 14. The Ohio and Switzerland superior court has a standard small claims and misdemeanor division.

Chapter 59. Orange County

Sec. 1. Orange County constitutes the eighty-seventh judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Orange superior court.

(b) Except as otherwise provided in this chapter, the Orange superior court is a standard superior court as described in IC 33-29-1.

(c) Orange County comprises the judicial district of the court.

Sec. 3. The Orange superior court has one (1) judge who shall hold sessions in:

(1) the Paoli Office Complex in Paoli; or

(2) other places in the county as the Orange county executive may provide.

Sec. 4. In addition to the personnel that may be appointed under IC 33-29-1-5, the judge of the Orange superior may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. Their salaries must be fixed in the same manner as the salaries of the personnel for the Orange circuit court. Their salaries must be paid monthly out of the treasury of Orange County as provided by law. Personnel appointed under this section continue in office until removed by the judge of the court.

Sec. 5. (a) Except as provided in subsection (b), the Orange superior court has the same jurisdiction as the Orange circuit court.

(b) The Orange circuit court has exclusive juvenile jurisdiction.

Sec. 6. The Orange superior court has a standard small claims and misdemeanor division.

Chapter 60. Owen County

Sec. 1. (a) Owen County constitutes the seventy-eighth judicial circuit.

(b) The Owen circuit court has a standard small claims and misdemeanor division.

Chapter 61. Parke County

Sec. 1. (a) Parke County constitutes the sixty-eighth judicial circuit.

(b) The Parke circuit court has a standard small claims and misdemeanor division.

Chapter 62. Perry County

Sec. 1. (a) Perry County constitutes the seventieth judicial circuit.

(b) The Perry circuit court has a standard small claims and misdemeanor division.

Chapter 63. Pike County

Sec. 1. (a) Pike County constitutes the eighty-third judicial circuit.

(b) The Pike circuit court has a standard small claims and misdemeanor division.

Chapter 64. Porter County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Porter County constitutes the sixty-seventh judicial circuit.

Sec. 3. (a) There is established a court of record to be known as Porter superior court. The Porter superior court has five (5) judges, who hold office for six (6) years, beginning on the first day of January after their election and until their successors are elected and qualified. Every six (6) years the voters of Porter County shall elect at the general election the judges for the superior court.

(b) The judges of the Porter superior court are designated as follows:

(1) Two (2) judges are judges of the superior court, superior division.

(2) Three (3) judges are judges of the superior court, county division.

Sec. 4. (a) The Porter superior court's superior division shall have a seal consisting of a circular disk containing the words "Porter Superior Court, Superior Division", an impression of which shall be spread of record upon the order book of the court.

(b) The Porter superior court's county division shall have a seal consisting of a circular disk containing the words "Porter Superior Court, County Division", an impression of which shall be imprinted upon the order book of the court.

Sec. 5. (a) Except as provided in subsection (b), the Porter superior court has the following jurisdiction:

(1) Original, appellate, concurrent, and coextensive jurisdiction with the circuit court in all civil cases, criminal cases, and probate matters.

(2) Concurrent and coextensive jurisdiction with the circuit court in all cases of appeal from boards of county commissioners and all other appellate jurisdiction vested in the circuit court.

(3) Concurrent and coextensive jurisdiction in all matters of probate and the settlement of decedents' estates, trusts, and guardianships.

(4) Jurisdiction over all other subject matters actionable in

the circuit court.

(b) All matters in which a child is alleged to be a delinquent child or a child in need of services exclusively resides in the jurisdiction of the circuit court of the county.

Sec. 6. The judges of the Porter superior court may make and adopt rules and regulations for conducting the business of the court and have all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 7. The judges of the Porter superior court have the same power to grant restraining orders and injunctions, to issue writs of habeas corpus and of mandate and prohibition, to appoint receivers, masters, and commissioners to convey real property, and to grant commissions for the examination of witnesses, and to appoint other officers necessary to facilitate and transact the business of the court as is conferred on circuit courts or the judges of circuit courts.

Sec. 8. (a) The Porter superior court, superior division, shall hold sessions in the Porter County courthouse in Valparaiso.

(b) One (1) judge of the Porter superior court, county division, shall hold sessions of the court in Valparaiso and two (2) judges shall hold sessions of the court principally in Portage Township and may sit periodically in Westchester Township in the discretion of the judges in Porter County.

(c) The board of county commissioners of Porter County shall:

(1) provide and maintain suitable and convenient courtrooms for the holding of the court, together with suitable and convenient jury rooms and offices for the judges, secretaries, and official court reporters, and other facilities as may be necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of the court.

The county council shall appropriate sufficient funds to implement this section.

Sec. 9. The clerk, under the direction of a Porter superior court judge, shall provide order books, judgment dockets, execution

dockets, fee books and other books, papers, and records as necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 10. (a) The Porter superior court shall maintain a single order book for the Porter superior court, superior division, that may be signed on behalf of the court by any of the sitting judges of the superior division. A judge's signature constitutes authentication of the actions of each judge in the court.

(b) The Porter superior court shall maintain an order book for the judge of the Porter superior court, county division, located in Valparaiso and a separate order book for the judge of the Porter superior court, county division, located in Portage Township. The signature of a judge of the Porter superior court, county division, constitutes authentication of the actions of the judge taken on behalf of the superior court holding sessions in that location.

Sec. 11. Each judge of the Porter superior court shall appoint a bailiff for the court whose salary shall be fixed by the court and paid as provided by law.

Sec. 12. Each judge of the Porter superior court shall appoint a court reporter whose duties, salary, and term shall be regulated in the same manner as the court reporter of the circuit court.

Sec. 13. The process of the Porter superior court must have the seal affixed. The process must be attested, directed, served, returned, and be in the form as provided for process issuing from the circuit court.

Sec. 14. Each Porter superior judge may appoint additional officers and personnel necessary for the proper administration of the judge's duties as judge of the court.

Sec. 15. (a) The Porter superior court by rules adopted by the court, shall designate one (1) of the judges as presiding judge and fix the time the judge presides.

(b) The presiding judge shall be responsible for the operation and conduct of the court and for seeing that the court operates efficiently and judicially.

(c) If an agreement is not reached, the judge with the most seniority as a judge of a court of record shall act as presiding judge.

Sec. 16. When any action of the entire Porter superior court is required, the judges of the court shall act in concert. If there is a

disagreement, the decision of the majority of the judges controls. However, in the absence of a majority, the decision of the presiding judge controls.

Sec. 17. The Porter superior court shall, when it believes it is necessary, appoint additional personnel for the proper administration of the court, including but not limited to an administrative officer who shall operate under the jurisdiction of the presiding judge.

Sec. 18. The judge of the circuit court may, with the consent of the court transfer any action, cause, or proceeding filed and docketed in the circuit court to this court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with this court.

Sec. 19. Any judge of the Porter superior court may, with the consent of the judge of the Porter circuit court, transfer any action, cause, or proceeding filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in such action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court. However, a judge of the Porter superior court, county division, may not transfer any action or proceeding docketed in the small claims and misdemeanor division to the Porter circuit court or to the Porter superior court, superior division.

Sec. 20. The judge of the Porter circuit court may, with the Porter superior court's permission, sit and act as a judge of the Porter superior court in all matters pending before the superior court, without limitation and without any further order, in the same manner and stead as if the judge were a judge of the Porter superior court with all the rights and powers as if the judge were an elected judge of the Porter superior court, including the right to act as presiding judge and otherwise participate in the organization and administration of the superior court.

Sec. 21. The judges of the Porter superior court shall be commissioned by the governor in the same manner as a judge of the circuit court and any vacancy occurring in the office of judge of the superior court shall be filled by appointment by the governor in the same manner as vacancies in the office of the judge of the

circuit court.

Sec. 22. The Porter superior court, county division, located in Valparaiso, has a standard small claims and misdemeanor division and the Porter superior court, county division, located in Portage Township has a standard small claims and misdemeanor division.

Sec. 23. The judges of the Porter superior court may jointly appoint two (2) full-time magistrates under IC 33-23-5. The magistrates continue in office until removed by the judges of the superior court.

Chapter 65. Posey County

Sec. 1. Posey County constitutes the eleventh judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Posey superior court.

(b) The Posey superior court is a standard superior court as described in IC 33-29-1.

(c) Posey County comprises the judicial district of the court.

Sec. 3. The court has one (1) judge who shall hold sessions in:

- (1)** the Posey County courthouse in Mount Vernon; or
- (2)** other places in the county that the Posey County executive provides.

Sec. 4. The Posey superior court has a standard small claims and misdemeanor division.

Sec. 5. The Posey superior court has a standard small claims and misdemeanor division.

Chapter 66. Pulaski County

Sec. 1. Pulaski County constitutes the fifty-ninth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Pulaski superior court.

(b) The Pulaski superior court is a standard superior court as described in IC 33-29-1.

(c) Pulaski County comprises the judicial district of the court.

Sec. 3. The court has one (1) judge who shall hold sessions in:

- (1)** the Pulaski County courthouse in Winamac; or
- (2)** other places in the county that the Pulaski County executive provides.

Sec. 4. The Pulaski superior court has the same jurisdiction as the Pulaski circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Pulaski superior court has a standard small claims

and misdemeanor division.

Chapter 67. Putnam County

Sec. 1. Putnam County constitutes the sixty-fourth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Putnam superior court.

(b) Except as otherwise provided in this chapter, the Putnam superior court is a standard superior court as described in IC 33-29-1.

(c) Putnam County comprises the judicial district of the court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) The Putnam superior court has one (1) judge who shall be elected at the general election every six (6) years in Putnam County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(c) To be eligible to hold office as a judge of the court, a person must be:

(1) a resident of Putnam County; and

(2) admitted to the practice of law in Indiana.

Sec. 4. The Putnam superior court shall hold sessions in:

(1) the Putnam County courthouse in Greencastle; or

(2) other places in the county that the Putnam County executive provides.

Sec. 5. The Putnam superior court has the same jurisdiction as the Putnam circuit court.

Sec. 6. The Putnam superior court has a standard small claims and misdemeanor division.

Chapter 68. Randolph County

Sec. 1. Randolph County constitutes the twenty-fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Randolph superior court.

(b) The Randolph superior court is a standard superior court as described in IC 33-29-1.

(c) Randolph County comprises the judicial district of the court.

Sec. 3. The Randolph superior court has one (1) judge who shall hold sessions in:

(1) the Randolph County courthouse in Winchester; or

(2) other places in the county that the Randolph County executive provides.

Sec. 4. The Randolph superior court has the same jurisdiction as the Randolph circuit court.

Sec. 5. The Randolph superior court has a standard small claims and misdemeanor division.

Chapter 69. Ripley County

Sec. 1. (a) Ripley County constitutes the eightieth judicial circuit.

(b) The Ripley circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as the Ripley superior court.

(b) The Ripley superior court is a standard superior court as described in IC 33-29-1.

(c) Ripley County comprises the judicial district of the court.

Sec. 3. The Ripley superior court has one (1) judge who shall hold sessions in:

(1) the Ripley County courthouse in Versailles; or

(2) other places in the county that the Ripley County executive provides.

Sec. 4. The Ripley superior court has the same jurisdiction as the Ripley circuit court.

Sec. 5. The Ripley superior court has a standard small claims and misdemeanor division.

Chapter 70. Rush County

Sec. 1. Rush County constitutes the sixty-fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Rush superior court.

(b) The Rush superior court is a standard superior court as described in IC 33-29-1.

(c) Rush County comprises the judicial district of the court.

Sec. 3. The Rush superior court has one (1) judge who shall hold sessions in:

(1) the Rush County courthouse in Rushville; or

(2) other places in the county that the Rush county executive provides.

Sec. 4. The Rush superior court has the same jurisdiction as the Rush circuit court.

Sec. 5. The Rush superior court has a standard small claims and misdemeanor division.

Chapter 71. St. Joseph County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. St. Joseph County constitutes the sixtieth judicial circuit.

Sec. 3. The judge of the St. Joseph circuit court may appoint two (2) full-time magistrates under IC 33-23-5 to serve the circuit court. A magistrate continues in office until removed by the judge.

Sec. 4. Notwithstanding any other provision of this title, the jury commissioners, the superior court, and the circuit court of St. Joseph County may use a computerized jury selection system. However, the system used for the selection of jurors must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors.

Sec. 5. There is established a superior court in St. Joseph County. The court consists of eight (8) judges.

Sec. 6. The superior court shall be known as the St. Joseph superior court.

Sec. 7. The superior court shall have a seal consisting of a circular disk containing the words "St. Joseph Superior Court", an impression of which shall be spread of record upon the order book of the court.

Sec. 8. The St. Joseph superior court has the following jurisdiction:

(1) Original, appellate, concurrent, and coextensive jurisdiction with the circuit court in all civil cases, criminal cases, and probate matters.

(2) Concurrent and coextensive jurisdiction with the circuit court in all cases of appeal from boards of county commissioners and all other appellate jurisdiction vested in the circuit court.

(3) Concurrent and coextensive jurisdiction in all matters of probate and the settlement of decedents' estates, trusts, and guardianships.

(4) Jurisdiction in all other subject matters actionable in the circuit court.

(5) Original exclusive jurisdiction of all violations of ordinances of cities located in the county.

(6) Original exclusive jurisdiction in the trial of offenses

constituting violation of traffic ordinances of the cities and violations of traffic laws of the state that occur in any city of St. Joseph County.

(7) Original jurisdiction of violations of traffic laws of the state that occur outside a city in St. Joseph County.

Sec. 9. The St. Joseph superior court has a standard small claims and misdemeanor division.

Sec. 10. The St. Joseph superior court is a court of record, and its judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the circuit court.

Sec. 11. The judges of the superior court may make and adopt rules and regulations for conducting the business of the court and have all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 12. The judges of the superior court may:

- (1) grant restraining orders and injunctions;
- (2) issue writs of habeas corpus and of mandate and prohibition;
- (3) appoint receivers, masters, and commissioners to convey real property;
- (4) grant commissions for the examination of witnesses; and
- (5) appoint other officers necessary to facilitate and transact the business of the court;

the same as circuit courts or circuit court judges.

Sec. 13. (a) The St. Joseph superior court shall hold its sessions in:

- (1) the St. Joseph County courthouse in South Bend; and
- (2) at least one (1) appropriate place in Mishawaka.

The superior court in Mishawaka shall be full time and shall exercise full superior court jurisdiction in that city. The board of county commissioners of St. Joseph County shall provide and maintain in the courthouse in South Bend and in an appropriate place in Mishawaka court facilities that include suitable and convenient courtrooms, jury rooms, and offices for the judges,

secretaries, and official court reporters, and other necessary facilities, including all the necessary furniture and equipment for the rooms and offices of the court for the conduct of all criminal and civil business, including the necessary facilities for jury trials.

(b) The judges of the court have all jurisdiction and authority granted them by law regardless of the city in which they are located.

Sec. 14. The clerk, under the direction of the judge, shall provide order books, judgment dockets, execution dockets, fee books, and other books, papers, and records as necessary for the court, and all books, papers, and proceedings of the superior court shall be kept distinct and separate from those of other courts.

Sec. 15. The superior court shall maintain a single order book for the entire court that may be signed on behalf of the court by any of the sitting judges of the court, and the signature constitutes authentication of the actions of each judge in the court.

Sec. 16. Each judge of the superior court shall appoint a bailiff for the court whose salary shall be fixed by the court and paid as provided by law.

Sec. 17. Each judge of the superior court shall appoint a court reporter whose duties, salary, and term shall be regulated in the same manner as the court reporter of circuit court.

Sec. 18. All laws and rules adopted by the supreme court governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court shall be applicable to and govern the superior court.

Sec. 19. (a) The superior court shall, in each calendar year, appoint for the next calendar year two (2) persons as jury commissioners. The law with reference to jury commissioners appointed by the circuit court governs the jury commissioners as appointed by the superior court in all things, conditions, and qualifications. The jury commissioners shall prepare and draw the jury for the superior court, both petit and grand, as the law directs the same to be done by the jury commissioners for the circuit court. The superior court is governed by this law in making appointments of the jury commissioners. The clerk of the circuit

court in issuing process for the jury and the sheriff of the county in serving the same, are governed, in all things, by the law made for petit juries in the circuit court. However, the superior court may order the day the jurors are summoned to attend the court, and any judge of the court may order the selection and summoning of other jurors for the court whenever necessary. The jury drawn by the jury commissioners shall be the jurors, either petit or grand, for the superior court, and shall serve the entire court and before any judge of the court where their services may be required. However, they do not have to serve in any particular order in which they were drawn by the jury commissioners. In the selection of jurors to serve before any judge, the selection must be on a fair and impartial basis.

(b) If at any time a jury is not drawn, the clerk of the court shall select from among the properly qualified residents of the county a jury that shall be summoned and considered in all things as a regular panel of the court. The court may call one (1) or more juries during any calendar year and may by rule provide for how long any jury shall sit.

Sec. 20. Any party may appeal to the supreme court or the court of appeals from any order or judgment of the superior court in any case where, under Indiana law, an appeal may be had from a similar order or judgment of the circuit court. The appeal is governed by the law governing appeals from the circuit court to the court of appeals and the supreme court.

Sec. 21. The process of the superior court must have the seal affixed. The process must be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.

Sec. 22. Each judge of the superior court may appoint additional officers and personnel as necessary for the proper administration of the judge's duties as judge of the court.

Sec. 23. (a) The superior court, by rules duly adopted by the court, shall designate one (1) of the judges as chief judge and fix the time the chief judge presides.

(b) The chief judge shall be responsible for the operation and conduct of the court and to seeing that the court operates efficiently and judicially.

(c) The chief judge shall do the following:

- (1) Assign cases to a judge of the court or reassign cases from one (1) judge of the court to another judge of the court to ensure the efficient operation and conduct of the court.**
- (2) Assign and allocate courtrooms, other rooms, and other facilities to ensure the efficient operation and conduct of the court.**
- (3) Annually submit to the fiscal body of St. Joseph County a budget for the court.**
- (4) Make appointments or selections on behalf of the court that are required of a superior court judge under any statute.**
- (5) Direct the employment and management of court personnel.**
- (6) Conduct cooperative efforts with other courts for establishing and administering shared programs and facilities.**

Sec. 24. When any action of the entire superior court is required, the judges of the court shall act in concert. If there is a disagreement, the decision of the majority of the judges controls. However, if the judges are evenly divided, the decision joined by the chief judge controls.

Sec. 25. The superior court shall, when it believes it is necessary, appoint additional personnel for the proper administration of the court, including an administrative officer who shall operate under the jurisdiction of the chief judge.

Sec. 26. The judge of the circuit court may, with the consent of the chief judge, transfer any action, cause, or proceeding filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court.

Sec. 27. The chief judge of the superior court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceeding filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the circuit court.

Sec. 28. The judge of the St. Joseph circuit court at the circuit court judge's discretion, may sit as a judge of the superior court, with the chief judge's permission, in all matters pending before the

superior court, without limitation and without any further order, in the same manner as if the judge of the circuit court were a judge of the superior court with all the rights and powers as if the judge of the circuit court were an elected judge of the superior court.

Sec. 29. (a) There is established a judicial nominating commission for the St. Joseph superior court, the functions, responsibilities, and procedures of which are set forth in sections 30 through 40 of this chapter.

(b) The board of county commissioners of St. Joseph County shall provide all facilities, equipments, supplies, and services necessary for the administration of the duties imposed upon the commission. The members of this commission shall serve without compensation. However, the board of county commissioners of St. Joseph County shall reimburse members of this commission for their actual expenses incurred in performing their duties.

Sec. 30. (a) The judicial nominating commission (referred to as the "commission" in this chapter) consists of seven (7) members, the majority of whom shall form a quorum. The chief justice shall appoint a justice of the supreme court or a judge of the court of appeals to serve as a member and chairman of the commission until a successor is appointed. Those admitted to the practice of law in Indiana and residing in St. Joseph County or maintaining their principal law office in St. Joseph County shall elect, under sections 32 and 33 of this chapter, three (3) of their number to serve as attorney members of the commission. If any attorney member of the commission terminates residence in St. Joseph County or discontinues the maintenance of a principal law office in St. Joseph County, the member shall be considered to have resigned from the commission. The three (3) remaining members of the commission must be persons not admitted to the practice of law (referred to as "nonattorney members" in this chapter) and residents of St. Joseph County. However, not more than two (2) of the nonattorney members may be from the same political party and that the appointment of the nonattorney members of the commission shall be made under section 31 of this chapter. Not more than four (4) commission members may be from the same political party.

(b) A member of the commission may not hold any other salaried public office nor an office in a political party organization.

A member of the commission is not eligible for appointment to a judicial office in St. Joseph County who has, within four (4) years immediately preceding an appointment, served on the commission. If any nonattorney member of the commission terminates residence in St. Joseph County, the member is considered to have resigned from the commission.

Sec. 31. (a) The appointment to membership on the commission of the nonattorney members shall be made by a selection committee consisting of the judge of the St. Joseph circuit court, the president of the board of St. Joseph County commissioners, and mayors in each of the two (2) cities having the largest populations in St. Joseph County. These appointments shall be made by a majority vote of the selection committee. If a vacancy occurs on the commission among the nonattorney members, that fact shall be reported to the judge of the St. Joseph circuit court by the commission. Upon notification, the judge of the St. Joseph circuit court shall call into session the selection committee, which shall, by majority vote, select a person or persons not admitted to the practice of law, who shall serve the unexpired term of the vacant commission membership position and that this selection and appointment by the selection committee shall be made within sixty (60) days after the date the St. Joseph circuit court is notified of the creation of the vacancy. If the selection committee fails to act to fill an unexpired term of a nonattorney member of the commission within sixty (60) days after the notification that the vacancy exists, the vacancy shall be filled by a majority vote of the remaining members of the commission.

(b) Not less than sixty (60) days before the expiration of the term of a nonattorney member of the commission, the judge of the St. Joseph circuit court shall call into session the selection committee that shall appoint, by a majority vote, a person to the commission to serve a new term. If the selection committee fails to act to fill an expired term of a nonattorney member of the commission by the date of expiration of the term of a nonattorney member of the commission, the remaining members on the commission shall, by majority vote, appoint a person to serve for the succeeding term. All appointments made to the commission shall be certified within ten (10) days to the clerk of the St. Joseph superior court.

(c) Each appointee of a nonattorney member to the commission,

except those who fill a vacancy, shall serve for four (4) years.

Sec. 32. (a) Each year in which an attorney member's term expires, those admitted to the practice of law in Indiana and residing in St. Joseph County (referred to as "attorney electors" in this chapter) shall elect three (3) of their number to serve on the commission. Each attorney member of the commission shall serve for four (4) years. The term of each attorney member begins on the first day of October following the member's election. The election day is the date on which the ballots are counted. During the month before the expiration of each attorney commissioner's term of office, an election shall be held to fill the succeeding four (4) year term of office.

(b) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the commission shall be filled for the unexpired term of the member creating the vacancy by a special election.

Sec. 33. The attorney members of the commission shall be elected by the following process:

(1) The clerk of the St. Joseph superior court shall at least ninety (90) days before the date of election notify all attorneys in St. Joseph County of the upcoming election by mail, informing them that nominations must be made to the clerk of the superior court at least sixty (60) days before the election. The clerk shall secure a list of all attorneys in the county and their correct addresses from the clerk of the supreme court.

(2) A nomination in writing accompanied by a signed petition of ten (10) attorney electors, and the written consent of the qualified nominee shall be filed by an attorney elector or group of attorney electors residing in St. Joseph County, by mail or otherwise, in the office of the clerk of St. Joseph superior court at least sixty (60) days before the election.

(3) The clerk of St. Joseph superior court shall prepare and print ballots containing the names and residence addresses of all attorney nominees whose written nominations, petitions and written statements of consent have been received sixty (60) days before the election.

The ballot must read:

**"ST. JOSEPH SUPERIOR COURT
NOMINATING COMMISSION BALLOT**

To be cast by individuals residing in St. Joseph County and admitted to the practice of law in Indiana. Vote for one (1) of the following candidates for the term commencing:

(Insert Date)

()	(Name)	(Address)
()	(Name)	(Address)
()	(etc.)	(etc.)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the clerk of St. Joseph superior court not later than _____ (insert date).

DESTROY BALLOT IF NOT USED".

- (4) The nominee receiving the most votes is elected.**
- (5) The clerk shall also supply with each ballot distributed by the clerk a certificate, to be completed and signed and returned by the attorney elector voting that ballot, certifying that the attorney elector is admitted to the practice of law in Indiana, resides in St. Joseph County, and voted the ballot returned. A ballot not accompanied by the signed certificate of the voter may not be counted.**
- (6) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot is to be placed. This envelope may not be opened until the counting of the ballots.**
- (7) The clerk of St. Joseph superior court shall mail a ballot and its accompanying material to all qualified attorney electors at least two (2) weeks before the date of election.**
- (8) Upon receiving the completed ballots and the accompanying certificates, the clerk shall insure that the certificates have been completed in compliance with this chapter. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.**
- (9) The clerk of St. Joseph superior court, with the assistance of the St. Joseph County election board, shall open and canvass all ballots at 4 p.m. on the day of election in the office**

of the clerk of St. Joseph superior court. Ballots received after 4 p.m. may not be counted. Upon canvassing the ballots the clerk shall place all ballots back in their package. These, along with the certificates, shall be retained in the clerk's office for six (6) months. The clerk may not allow a person to inspect them except upon an order of the court of appeals.

(10) In any election held for selection of attorney members of the commission, in case two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give that nominee a plurality, the canvassers shall resolve the tie by lot, and the winner of the lot is considered elected.

Sec. 34. After:

(1) the attorney members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the selection committee have been certified to the secretary of state, clerk of the supreme court, and the clerk of St. Joseph superior court under this chapter;

the clerk of St. Joseph superior court shall by regular mail notify the members of the commission of their election or appointment, and shall notify the chairman of the commission of the same.

Sec. 35. A person who has been elected or appointed to a full four (4) year term upon the commission may not succeed himself or herself or be eligible for election or appointment to the commission for four (4) years after the expiration of the term to which the person was elected or appointed.

Sec. 36. (a) When a vacancy occurs in the St. Joseph superior court, the clerk of the court shall promptly notify the chairman of the commission of the vacancy. The chairman shall call a meeting of the commission within ten (10) days following this notice. The commission shall submit its nominations of five (5) candidates for each vacancy and certify them to the governor as promptly as possible, and not later than sixty (60) days after the vacancy occurs. When it is known that a vacancy will occur at a definite future date within the term of the serving governor, but the vacancy has not yet occurred, the clerk shall notify the commission immediately. The commission may within fifty (50) days of the notice of vacancy make its nominations and submit to the governor the names of five (5) persons nominated for the forthcoming

vacancy.

(b) Meetings of the commission shall be called by the chairman or, if the chairman fails to call a necessary meeting, upon the call of any four (4) members of the commission. The chairman, whenever the chairman considers a meeting necessary, or upon the request by any four (4) members of the commission for a meeting, shall give each member of the commission at least five (5) days written notice by mail of the time and place of every meeting unless the commission at its previous meeting designated the time and place of its next meeting.

(c) Meetings of the commission must be held at a place in the St. Joseph County courthouse in South Bend as the clerk of the St. Joseph superior court may arrange.

(d) The commission shall act only at a meeting and may act only by the concurrence of a majority of its members attending a meeting. Four (4) members are required to constitute a quorum at a meeting. The commission may adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties.

Sec. 37. (a) The commission shall submit only the names of the five (5) most highly qualified candidates from among those eligible individuals considered. To be eligible for nomination as a judge of the St. Joseph superior court, a person must be domiciled in the county of St. Joseph, a citizen of the United States, and admitted to the practice of law in the courts of Indiana.

(b) In abiding by the mandate in subsection (a), the commission shall evaluate in writing each eligible individual on the following factors:

- (1) Law school record, including any academic honors and achievements.
- (2) Contribution to scholarly journals and publications, legislative draftings, and legal briefs.
- (3) Activities in public service, including:
 - (A) writings and speeches concerning public or civic affairs which are on public record, including but not limited to campaign speeches or writing, letters to newspapers, and testimony before public agencies;
 - (B) efforts and achievements in improving the administration of justice; and

(C) other conduct relating to the individual's profession.

(4) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

(5) Probable judicial temperament.

(6) Physical condition, including age, stamina, and possible habitual intemperance.

(7) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate patience, decisiveness, and dedication.

(8) Membership on boards of directors, financial interest, and any other consideration that might create conflict of interest with a judicial office.

(9) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.

(c) Written evaluations may not be made on an individual until the individual states in writing that the individual desires to hold a judicial office that is or will be created by vacancy.

(d) The political affiliations of any candidate may not be considered by the commission in evaluating and determining which eligible candidates shall be recommended to the governor for a vacancy on the St. Joseph superior court.

Sec. 38. The commission shall submit with the list of five (5) nominees to the governor its written evaluation of the qualifications of each candidate, and the names and written evaluations shall be publicly disclosed. Every eligible candidate whose name was not submitted to the governor is entitled to access to any evaluation of the candidate by the commission and the right to make the evaluation public. Otherwise, the evaluation, including the names of the candidates applying for the office, shall remain confidential. If the commission determines that there are less than five (5) persons qualified under section 40 of this chapter, the commission must submit a lesser number under section 40 of this chapter.

Sec. 39. (a) After the commission has nominated and submitted to the governor the names of five (5) persons for appointment to fill a vacancy of the St. Joseph superior court:

(1) any name may be withdrawn for a cause considered by the

commission to be of a substantial nature affecting the nominee's qualifications to hold office; and

(2) another name may be substituted at any time before the appointment is made to fill the vacancy.

(b) If a nominee dies, or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee.

(c) If there are existing at the same time two (2) or more vacancies on the court, the commission shall nominate and submit to the governor a list of five (5) different persons for each of the vacancies. The commission may before an appointment is made:

(1) withdraw the lists of nominations;

(2) change the names of any persons nominated from one (1) list to another; and

(3) resubmit the lists as changed or substitute a new name for any of those previously nominated.

Sec. 40. (a) A vacancy occurring in the St. Joseph superior court shall be filled by appointment of the governor from a list of nominees presented to the governor by the judicial nominating commission. If the governor fails to make an appointment from the list within sixty (60) days from the day it is presented to the governor, the appointment shall be made by the chief justice or the acting chief justice of the supreme court from the same list presented to the governor.

(b) The governor shall make all appointments to the St. Joseph superior court without regard to the political affiliation of any of the nominees submitted to the governor. In the interest of justice, the governor shall consider only those qualifications of the nominees included in section 37 of this chapter.

(c) If the St. Joseph County judicial nominating commission, by a vote of any five (5) of its members, determines that, of the persons considered for any existing or expected vacancy in the St. Joseph superior court, less than five (5) are qualified for judicial office, within the scope of this chapter, the commission shall certify that determination to the governor together with the name or names of the person or persons found to be qualified under this chapter. In that event, the governor, chief justice, or acting chief justice shall make the selection or, if only one (1) name is submitted, make the appointment.

Sec. 41. An appointment by the governor, chief justice, or acting chief justice, as required by section 40 of this chapter, to the St. Joseph County superior court shall take effect immediately if a vacancy exists at the date of the appointment. The appointment shall take effect on the date the vacancy is created if a vacancy does not exist on the date of the appointment.

Sec. 42. (a) Each judge appointed serves an initial term that begins on the effective date of the judge's appointment and continues through December 31 in the year of the general election that follows the expiration of two (2) years after the effective date of the judge's appointment.

(b) Thereafter, unless rejected by the electorate of St. Joseph County under this chapter, each judge of the St. Joseph superior court serves successive six (6) year terms. Each successive six (6) year term begins on the first day of January following the expiration of the preceding initial term or the preceding six (6) year term and continues for six (6) years.

Sec. 43. (a) The question of the retention in office or rejection of each judge of the St. Joseph superior court shall be submitted to the electorate of St. Joseph County at the general election immediately preceding expiration of the term of that judge.

(b) If a judge subject to this chapter does not desire to serve a further term, the judge shall notify the judge's intention in writing to the clerk of the St. Joseph circuit court at least sixty (60) days before the general election immediately preceding expiration of the judge's term in which case the question of the judge's retention in office or rejection may not be submitted to the electorate, and the office is vacant at the expiration of the term.

(c) The St. Joseph County election board shall submit the question of the retention in office or rejection of any judge to the electorate of St. Joseph County. The submission of this question is subject to the provisions of IC 3 that are not inconsistent with this chapter.

(d) At the general election, the question of the retention in office or rejection of a judge shall be submitted to the electorate of St. Joseph County in the form prescribed by IC 3-11-2 and must state "Shall Judge (insert name) of the St. Joseph superior court be retained in office for an additional term?".

(e) If a majority of the ballots cast by the electors voting on the

question is "No", the judge whose name appeared on such question is rejected. The office of the rejected judge is vacant on January 1 following the rejection. The vacancy shall be filled by appointment of the governor under section 40 of this chapter. The name of the rejected judge may not be included among those submitted to the governor. However, the judge's rejection does not disqualify a rejected judge from being considered for another judicial office that becomes vacant.

Sec. 44. (a) During a term of office, a judge of the St. Joseph superior court may not engage in the practice of law, run for an elective office other than a judicial office, or directly or indirectly make any contributions to or hold any office in a political party or organization. A judge may not take part in any political campaign except as a candidate for retention in judicial office and, in that event, the judge's campaign participation must be absolutely devoid of partisan association and be limited to activities designed to acquaint the electorate with the judge's judicial record.

(b) Failure to comply with this section is sufficient cause for the commission on judicial qualifications established by section 45 of this chapter to recommend to the supreme court that the judge be censured or removed from office.

Sec. 45. There is established a commission on judicial qualifications for the St. Joseph superior court, whose membership is the same as that of the judicial nominating commission under section 29 of this chapter. The commission on judicial qualifications may employ special counsel in any proceedings it undertakes under the responsibilities imposed upon it by this chapter.

Sec. 46. (a) On recommendation of the commission on judicial qualifications, the supreme court may suspend a judge of the St. Joseph superior court from office without salary when in any court in the United States the judge enters a plea of guilty or nolo contendere to, or is found guilty of, any crime punishable as a felony under the laws of Indiana or of the United States, or of any other crime that involves moral turpitude under that law. If the judge's conviction is reversed, suspension terminates, and the judge shall be paid the judge's salary for the period of suspension. If the judge is suspended and the judge's conviction is affirmed or otherwise becomes final, the supreme court shall remove the judge

from office.

(b) On recommendation of the commission on judicial qualifications, the supreme court may:

(1) retire a judge of the St. Joseph superior court for disability that seriously interferes with the performance of the judge's duties and is likely to become permanent; and

(2) censure or remove a judge of the St. Joseph superior court for conduct occurring not more than six (6) years before the commencement of the judge's current term, when the conduct constitutes willful misconduct in office, willful and persistent failure to perform the judge's duties, habitual intemperance, or conduct prejudicial to the administration of justice or that brings or tends to bring judicial office into disrepute.

(c) When the supreme court receives any recommendation from the commission on judicial qualifications, it shall hold a hearing, at which the affected judge is entitled to attend, and shall make a determination as is required. The supreme court shall make rules regarding the convening and conduct of hearings, which shall, upon request of the judge whom it concerns, be public.

Sec. 47. (a) The commission on judicial qualifications shall meet periodically as necessary to discharge its statutory responsibilities. Meetings of the commission on judicial qualifications shall be called in the same manner as prescribed for the judicial nominating commission. A quorum for the transaction of business is four (4) members.

(b) The clerk of the St. Joseph circuit court shall make arrangements for a meeting place in St. Joseph County as the commission may request.

(c) The commission on judicial qualifications may act only at a meeting. The commission on judicial qualifications may adopt reasonable and proper rules and regulations for the conduct of its meetings and discharge of its duties.

Sec. 48. (a) All papers filed with and proceedings had before the commission on judicial qualifications before the institution of formal proceedings are confidential unless the judge against whom a complaint has been filed elects to have the information divulged or unless the commission elects to answer publicly disseminated statements issued by any complainant.

(b) All papers filed with the commission on judicial

qualifications at the time of or after the institution of formal proceedings are open for public inspection at all reasonable times. Records of proceedings are open for public inspection at all reasonable times. All hearings and proceedings before the commission on judicial qualifications are open to the public.

Sec. 49. The filing of papers with or the giving of testimony before the commission on judicial qualifications under this chapter are absolutely privileged in any action for defamation.

Sec. 50. Complaints directed to the commission on judicial qualifications do not have to be in writing. A specified form of complaint may be required if presented in writing.

Sec. 51. (a) Any citizen of Indiana may complain to the commission on judicial qualifications with reference to the activities, fitness, or qualifications of any judge of the St. Joseph superior court. Upon receiving a complaint or request, the commission on judicial qualifications shall make an initial inquiry to determine if a complaint is founded and not frivolous. The commission on judicial qualifications, without receiving a complaint, may make an initial inquiry on its own motion.

(b) If the commission on judicial qualifications considers it necessary as a result of its initial inquiry to conduct further investigation, the judge involved may then be notified of the investigation, the nature of the charge, the complaint that must be in writing, the name of the person making the complaint, if any, or that the investigation is on the commission's own motion and the judge shall be afforded reasonable opportunity in the course of the investigation to present matters as the judge may choose. When this notice is given, it must be by prepaid registered or certified mail addressed to the judge at the judge's chambers and at the judge's last known address. If the investigation does not disclose sufficient cause to warrant further proceedings, the judge may be so notified. The commission on judicial qualifications may make investigations by members of the commission or by special investigators employed by the commission, hold confidential hearings with the person filing the complaint or with the person's agents or attorneys, and hold confidential hearings with the judge involved in the complaint.

(c) If the commission on judicial qualification's initial inquiry or investigation does not disclose sufficient cause to warrant further

proceedings and if the complainant subsequently issues any statement or statements of any kind for public dissemination relating to the activities or actions of the commission, the commission may answer that statement by reference to as much of the record of its proceedings or results of its investigation as it considers necessary.

Sec. 52. (a) After the investigation is completed and if the commission on judicial qualifications concludes that formal proceedings should be instituted, the commission shall give written notice to the judge advising the judge of the institution of formal proceedings to inquire into the charges against the judge. These proceedings shall be entitled:

**"BEFORE THE ST. JOSEPH COUNTY JUDICIAL
QUALIFICATIONS COMMISSION**

Inquiry Concerning a Judge, No. _____. "

(b) The notice must be issued in the name of the commission on judicial qualifications, specify in ordinary and concise language the charges against the judge and the alleged facts upon which the charges are based, and advise the judge of the judge's right to file a written answer to the charges against the judge within twenty (20) days after service of the notice upon the judge. A charge is not sufficient if it merely recites the general language of the original complaint. The charge must specify the facts relied upon to support a particular charge. A copy of the notice shall be filed in the office of the commission on judicial qualifications.

(c) The notice shall be made upon the judge by registered or certified mail addressed to the judge at the judge's chambers and the judge's last known address.

Sec. 53. Within twenty (20) days after service of the notice of formal proceedings, the judge may file with the commission on judicial qualifications a signed original and one (1) copy of an answer, and shall serve a copy on the counsel by mail.

Sec. 54. Upon filing an answer or upon the expiration of the time for its filing, the commission on judicial qualifications shall order a hearing to be held before it concerning the discipline, retirement, or removal of the judge. The commission on judicial qualifications shall set an approximate date, time, and place for a hearing and shall give notice of the hearing by registered or certified mail to the judge and to the counsel at least twenty (20) days before the date

set.

Sec. 55. (a) At the date, time, and place set for hearing, the commission on judicial qualifications may proceed with the hearing whether or not the judge has filed an answer or appears at the hearing.

(b) The failure of the judge to answer or to appear at the hearing, standing alone, may not be taken as evidence of the truth of the facts alleged to constitute grounds for censure, retirement, or removal. In any proceeding for involuntary retirement for disability, the failure of the judge to testify in the judge's own behalf or to submit to a medical examination requested by the commission on judicial qualifications may be considered, unless the failure to appear was due to circumstances beyond the judge's control.

(c) The proceedings at the hearing shall be reported verbatim.

(d) At least four (4) members of the commission on judicial qualifications must be present when the evidence is produced.

Sec. 56. At a hearing before the commission on judicial qualifications the evidentiary rules of the courts of Indiana apply.

Sec. 57. (a) In formal proceedings involving the judge's discipline, retirement, or removal, a judge has the right and reasonable opportunity to defend against the charges by the introduction of evidence, to be represented by counsel, and to examine and cross-examine witnesses. The judge has the right to the issuance of subpoenas for attendance of witnesses to testify or produce books, papers, and other evidentiary matter.

(b) When a transcript of the testimony has been prepared at the expense of the commission on judicial qualifications, a copy shall be furnished without cost to the judge. The judge has the right, without any order or approval, to have all or any part of the testimony in the proceedings transcribed at the judge's expense.

(c) Except as otherwise provided in this chapter, whenever provision is made for giving notice or sending any matter to the judge, that notice or matter must be mailed by registered or certified mail to the judge at the judge's office and residence unless the judge requests otherwise in writing, and a copy is mailed to the judge's attorney of record.

(d) If the judge has been adjudged incapacitated under IC 29-3, the guardian may claim and exercise any right and privilege and

make any defense for the judge with the same force and effect as if claimed, exercised, or made by the judge, if competent, and whenever these rules provide for serving or giving notice or sending any matter to the judge, a copy of the notice or matter also shall be served, given, or sent to the guardian.

Sec. 58. At any time before determination of the issues, the commission on judicial qualifications may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts, whether occurring before or after the commencement of the hearing. If an amendment is made, the judge shall be given reasonable time both to answer the amendment and to prepare and present the judge's defense against the matters charged thereby.

Sec. 59. The commission on judicial qualifications may order a hearing for the taking of additional evidence at any time while the matter is pending before it. The order must set the date, time, and place of the hearing in St. Joseph County and must indicate the matters on which the evidence is to be taken. A copy of the order shall be sent by registered or certified mail to the judge and to the counsel at least ten (10) days before the date of the hearing.

Sec. 60. If the commission on judicial qualifications finds good cause, it shall recommend to the supreme court the censure, retirement, or removal of the judge. The affirmative vote of four (4) members of the commission on judicial qualifications, including a majority of those who were present at the hearing or hearings when the evidence was produced, is required for a recommendation of discipline, retirement, or removal of a judge.

Sec. 61. Upon making a determination recommending the censure, retirement, or removal of a judge, the commission on judicial qualifications shall promptly file a copy of the recommendation certified by the chairman or secretary of the commission, together with the transcript and findings and conclusions, with the clerk of the supreme court and shall promptly mail to the judge and to the counsel notice of the filing, together with a copy of the recommendation, finding, and conclusions.

Sec. 62. (a) A petition to the supreme court to modify or reject the recommendation of the commission on judicial qualifications for censure, retirement, or removal of a judge may be filed by the

judge within thirty (30) days after the filing with the clerk of the supreme court of the certified copy of the commission's recommendation. The petition must:

- (1) be verified;
- (2) be based on the record;
- (3) specify the grounds relied on; and
- (4) be accompanied by petitioner's brief together with proof of service on the commission of two (2) copies, and on the counsel of one (1) copy, of the petition and the brief.

Within twenty (20) days after service of petitioner's brief the commission on judicial qualifications shall file a respondent's brief and serve a copy of the respondent's brief on the judge. Within twenty (20) days after service of the respondent's brief, the petitioner may file a reply brief, two (2) copies of which shall be served on the commission on judicial qualifications and one (1) copy shall be served on the counsel.

(b) Failure to file a petition within the time provided is considered a consent to the determination on the merits based upon the record filed by the commission on judicial qualifications.

(c) To the extent necessary to implement this section and if not inconsistent with this section, the Indiana Rules of Appellate Procedure are applicable to reviews by the supreme court of commission on judicial qualifications proceedings.

Sec. 63. The commission on judicial qualifications has jurisdiction and powers necessary to conduct the proper and speedy disposition of any investigation or hearing, including the power to compel the attendance of witnesses, to take or cause to be taken the deposition of witnesses, and to order the production of books, records, or other documentary evidence. Any member of the commission on judicial qualifications may administer oaths and affirmations to witnesses in any matter within the jurisdiction of the commission.

Sec. 64. Subpoenas for the attendance of witnesses and the production of documentary evidence between the commission on judicial qualifications or for discovery shall be issued by the chairman of the commission and shall be served in the manner provided by law for the service of process.

Sec. 65. If in any proceeding before the commission on judicial qualifications, any witness fails or refuses to attend upon subpoena

issued by the commission or any of the commission's representatives, or appearing, refuses to testify or refuses to produce any books and papers the production of which is called for by the subpoena, the attendance of any witness and the giving of the witness's testimony and the production of the books and papers required shall be enforced by the St. Joseph circuit court.

Sec. 66. All papers and pleadings filed with the chairman of the commission on judicial qualifications at the chairman's office shall be considered filed with the commission.

Sec. 67. (a) In all formal proceedings, discovery shall be available to the commission on judicial qualifications and to the judge in accordance with the Indiana Rules of Civil Procedure. Any motions requesting court orders for discovery shall be made to the St. Joseph circuit court.

(b) In all formal proceedings before the commission on judicial qualifications, the counsel shall furnish to the judge not less than twenty (20) days before any hearing the following:

(1) The names and addresses of all witnesses whose testimony the counsel expects to offer at the hearing together with copies of all written statements and transcripts of testimony of the witnesses in the possession of the counsel or the commission that are relevant to the subject matter of the hearing and that have not previously been furnished the judge.

(2) Copies of all documentary evidence that the counsel expects to offer in evidence at the hearing. The testimony of any witness, except if offered in rebuttal or for impeachment, whose name and address have not been furnished to the judge, and documentary evidence, copies of which have not been furnished to the judge, as provided in this subsection, are not admissible in evidence at the hearing over the objection of the judge. After formal proceedings have been instituted, the judge may request in writing that the counsel furnish to the judge the names and addresses of all witnesses then or thereafter known to the counsel who have information that may be relevant to any charge against the judge and to any defense of the judge with respect to the charge. The counsel shall also furnish copies of such written statements, transcripts of testimony, and documentary evidence as are then or thereafter known to the counsel and are then or

thereafter in the possession of the counsel or the commission that are relevant to any charges or defense and that have not previously been furnished the judge. The counsel shall comply with a request within ten (10) days after receipt of the request and thereafter within ten (10) days after any information or evidence becomes known to the counsel.

(c) During the course of an investigation by the commission on judicial qualifications, the judge whose conduct is being investigated may demand in writing that the commission either institute formal proceedings against the judge or enter a formal finding that there is not probable cause to believe that the judge is guilty of any misconduct. The commission on judicial qualifications shall within sixty (60) days after the judge's demand comply with the demand. A copy of the demand must be filed with the supreme court and is a matter of public record. If, after a demand, the commission on judicial qualifications finds that there is not probable cause, that finding must be filed with the supreme court and is a matter of public record.

Sec. 68. (a) Whenever a judge of a St. Joseph County court is retired by the supreme court under this chapter and on the grounds set forth in sections 44 and 46 of this chapter, the judge is considered to have retired voluntarily. In these situations, this chapter may not be construed to authorize any encroachment upon or impairment of any rights of the judge or the judge's surviving spouse under any constitutional or statutory retirement program.

(b) A judge of a St. Joseph County court who is removed from office by the supreme court on those grounds set forth in sections 44 and 46 of this chapter, is ineligible for judicial office and, pending further order of the supreme court, shall be suspended from the practice of law in Indiana.

Sec. 69. (a) The court may appoint two (2) full-time magistrates under IC 33-23-5 to serve the court using the selection method provided by IC 36-1-8-10(b)(1) or IC 36-1-8-10(b)(2). Not more than one (1) of the magistrates appointed under this section may be a member of the same political party.

(b) A magistrate continues in office until removed by the judges of the court.

(c) The powers of a magistrate appointed under this section include the powers provided in IC 33-23-5 and the power to enter

a final order or judgment in any proceeding involving matters specified in IC 33-29-2-3 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

Chapter 72. Scott County

Sec. 1. Scott County constitutes the sixth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Scott superior court.

(b) The Scott superior court is a standard superior court as described in IC 33-29-1.

(c) Scott County comprises the judicial district of the court.

Sec. 3. The Scott superior court has one (1) judge who shall hold sessions in Scottsburg.

Sec. 4. The Scott superior court has the same jurisdiction as the Scott circuit court.

Sec. 5. The Scott superior court has a standard small claims and misdemeanor division.

Chapter 73. Shelby County

Sec. 1. Shelby County constitutes the sixteenth judicial circuit.

Sec. 2. (a) There are established two (2) courts of record to be known as the Shelby superior court No. 1 and the Shelby superior court No. 2.

(b) Except as otherwise provided in this chapter, each Shelby superior court is a standard superior court as described in IC 33-29-1.

(c) Shelby County comprises the judicial district of the courts.

Sec. 3. Each Shelby superior court has one (1) judge who shall hold sessions in the Shelby County courthouse in Shelbyville.

Sec. 4. (a) This section does not apply to criminal cases.

(b) If the transcript of the original papers in a civil action or proceeding received by the clerk of the Shelby circuit court and Shelby superior courts on change of venue from another county contains an order of the court from which venue was changed designating the court to which the case is to be transferred, the clerk shall file the action or proceeding on the docket of the designated court.

(c) If the transcript of the original papers in a civil action or proceeding does not contain an order designating the court to which the case is to be transferred, the clerk shall alternately file

each action or proceeding on the docket of the Shelby circuit court and the docket of the Shelby superior courts depending on the order and sequence in which the papers of the cases reach the clerk.

Sec. 5. (a) This section does not apply to criminal cases.

(b) Notwithstanding IC 33-29-1-9, after any action or proceeding is docketed in a Shelby superior court or the Shelby circuit court on change of venue, all parties who have appeared in the case in person or by counsel may agree on and request a transfer from a superior court to the circuit court or from the circuit court to a superior court.

(c) Upon the agreement of all parties, the court in which the action is pending shall order the case transferred to the other court. The clerk shall transmit the original papers of the case to the other court and docket the case in the other court without any transcript being required.

(d) All further proceedings in the case shall take place in the court to which the case is transferred. If the case is one in which the prosecuting attorney is required to appear and defend and a party fails to appear or to employ counsel, the prosecuting attorney has the right to agree to the transfer instead of the nonappearing party or counsel.

Sec. 6. The Shelby superior courts have the same jurisdiction as the Shelby circuit court, except that Shelby superior court No. 1 has exclusive juvenile jurisdiction in the county.

Sec. 7. Shelby superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 74. Spencer County

Sec. 1. (a) Spencer County constitutes the eighty-fourth judicial circuit.

(b) The Spencer circuit court has a standard small claims and misdemeanor division.

Chapter 75. Starke County

Sec. 1. (a) Starke County constitutes the forty-fourth judicial circuit.

(b) The Starke circuit court has a standard small claims and misdemeanor division.

Sec. 2. The judge of the Starke circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in

office until removed by the judge.

Sec. 3. All inherent powers of judicial mandate in Starke County remain vested solely in the judge of the Starke circuit court.

Chapter 76. Steuben County

Sec. 1. (a) Steuben County constitutes the eighty-fifth judicial circuit.

(b) The judges of the Steuben circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the Steuben circuit and superior courts.

Sec. 2. (a) There is established a court of record to be known as the Steuben superior court.

(b) The Steuben superior court is a standard superior court as described in IC 33-29-1.

(c) Steuben County comprises the judicial district of the court.

Sec. 3. The Steuben superior court has one (1) judge who shall hold sessions in:

(1) the Steuben County courthouse in Angola; or

(2) other places in the county that the Steuben County executive may provide.

Sec. 4. The Steuben superior court has the same jurisdiction as the Steuben circuit court.

Sec. 5. The Steuben superior court has a standard small claims and misdemeanor division.

Chapter 77. Sullivan County

Sec. 1. (a) Sullivan County constitutes the fourteenth judicial circuit.

(b) The judge of the Sullivan circuit court and the judge of the Sullivan superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judge of the Sullivan circuit court and the judge of the Sullivan superior court.

Sec. 2. (a) There is established a court of record to be known as the Sullivan superior court.

(b) The Sullivan superior court is a standard superior court as described in IC 33-29-1.

(c) Sullivan County comprises the judicial district of the court.

Sec. 3. The Sullivan superior court has one (1) judge who shall hold sessions in:

- (1) the Sullivan County courthouse in Sullivan; or
- (2) other places in the county that the Sullivan County executive provides.

Sec. 4. The Sullivan superior court has the same jurisdiction as the Sullivan circuit court.

Sec. 5. The Sullivan superior court has a standard small claims and misdemeanor division.

Chapter 78. Switzerland County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Jefferson County and Switzerland County constitute the fifth judicial circuit.

Sec. 3. (a) There is established a court of record to be known as the Ohio and Switzerland superior court.

(b) The court may have a seal containing the words "Ohio and Switzerland Superior Court, Ohio and Switzerland Counties, Indiana". Ohio and Switzerland counties comprise the judicial district of the court.

Sec. 4. The Ohio and Switzerland superior court has one (1) judge, who shall be elected at the general election every six (6) years in Ohio and Switzerland counties. The judge's term begins January 1 following the judge's election and ends December 31 following the election of the judge's successor.

Sec. 5. The judge of the Ohio and Switzerland superior court has the same powers relating to the conduct of the business of the court as a judge of a circuit court under IC 33-28-1.

Sec. 6. The judge of the Ohio and Switzerland superior court is entitled to the salary set out in IC 33-38-5. The salary shall be paid in the same manner as the salary of a circuit court judge, and the part of the salary to be paid by the counties shall be paid by Ohio and Switzerland counties in equal amounts.

Sec. 7. (a) The Ohio and Switzerland superior court shall hold its sessions in:

- (1) the courthouse in Rising Sun and in Vevay; or
- (2) other places in the county as the board of county commissioners of Ohio County or Switzerland County may provide.

(b) Each board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. Each county council shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.

Sec. 8. The judge of the Ohio and Switzerland superior court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for a circuit court. Their salaries shall be paid monthly out of the treasuries of Ohio and Switzerland counties as provided by law.

Sec. 9. The clerk of the Ohio and Switzerland superior court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

Sec. 10. The Ohio and Switzerland superior court shall, during each calendar year, appoint one (1) resident of Ohio County and one (1) resident of Switzerland County to act as jury commissioners for the superior court. These jury commissioners shall:

- (1) be appointed by a judge of the superior court;
- (2) be qualified to act as jury commissioners; and
- (3) prepare and draw the jury for the superior court;

in the same manner as is required for jury commissioners of circuit courts in Ohio and Switzerland counties. The clerks of the circuit courts of Ohio and Switzerland counties and the sheriffs of Ohio and Switzerland counties shall issue and serve process for the superior court in relation to jury selection and summoning in the same manner as for those circuit courts. The superior court may order the time when jurors must attend court, and may order the selection and summoning of other jurors for the superior court whenever necessary.

Sec. 11. The judge of the circuit courts in Ohio and Switzerland counties may, with the consent of the judge of the Ohio and Switzerland superior court, transfer any action or proceeding from the circuit court that originated in Ohio County or Switzerland County to the Ohio and Switzerland superior court. The judge of the Ohio and Switzerland superior court may, with consent of the

judge of such a circuit court, transfer any action or proceeding from the Ohio and Switzerland superior court to the circuit court in the county where that action or proceeding originated.

Sec. 12. The judge of the circuit court in Ohio County or Switzerland County may, with the consent of the judge of the Ohio and Switzerland superior court, sit as a judge of the court in any matter over which the judge would have had jurisdiction as circuit court judge, as if the judge was an elected judge of the court. The judge of the Ohio and Switzerland superior court may, with consent of the judge of a circuit court, sit as a judge of a circuit court in Ohio County or Switzerland County in any matter over which the judge would have jurisdiction as superior judge, as if the judge were an elected judge of that circuit court.

Sec. 13. The Ohio and Switzerland superior court has the same jurisdiction as a circuit court under IC 33-28-3 and IC 33-28-1-2.

Sec. 14. The Ohio and Switzerland superior court has a standard small claims and misdemeanor division.

Chapter 79. Tippecanoe County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Tippecanoe County constitutes the twenty-third judicial circuit.

Sec. 3. (a) There is established a court of record to be known as the superior court of Tippecanoe County.

(b) The superior court has one (1) judge, who shall hold office for six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified. The judge shall be elected every six (6) years at the general election.

Sec. 4. The judge of the superior court shall cause to be provided a seal for the court. The seal must contain on its face the words "Superior Court of Tippecanoe County". A description and impression of the seal shall be spread upon the order book of the court.

Sec. 5. The superior court shall hold its sessions at the Tippecanoe County courthouse or at any other convenient place as the board of county commissioners or the judge of the court may provide in Lafayette.

Sec. 6. The superior court has the same original and appellate jurisdiction possessed by the Tippecanoe circuit court in civil and

criminal cases, but not in matters of probate or juvenile jurisdiction.

Sec. 7. The process of the superior court must have the seal affixed, and be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.

Sec. 8. The superior court is a court of record and of general jurisdiction, and its judgments, decrees, orders, and proceedings have the same force and effect as those of the circuit court and shall be enforced in the same manner.

Sec. 9. The superior court may:

(1) issue and direct all process to courts of inferior jurisdiction, corporations, and individuals necessary in exercising the court's jurisdiction and for the regular execution of the law;

(2) make all proper judgments, sentences, decrees, orders, and injunctions;

(3) issue all process and executions; and

(4) perform other acts necessary to implement this chapter; in conformity with the Constitution of the State of Indiana and Indiana law.

Sec. 10. The judge of the court may grant restraining orders and injunctions; issue writs of habeas corpus and of mandate and prohibition; appoint receivers, master commissioners, and commissioners to convey real property; grant commissions for the examination of witnesses; and appoint other officers necessary to facilitate and transact the business of said court, conferred on circuit courts or circuit court judges.

Sec. 11. (a) The judge of the court:

(1) may make and adopt rules and regulations for conducting the business of the court; and

(2) has the power incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders.

(b) The judge of the court may:

(1) administer oaths;

(2) solemnize marriages;

(3) take and certify acknowledgments of deeds; and

(4) give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 12. If the judge of the court is interested, or in the progress of the cause becomes interested, in an action or a matter pending in the court, the action or matter shall be removed for hearing and determination to the Tippecanoe circuit court.

Sec. 13. (a) When an affidavit for a change of venue is filed in the superior court for any of the causes described in IC 34-35-1-1(1), IC 34-35-1-1(2), IC 34-35-1-1(6), or IC 34-35-1-1(7), a judge of the circuit or a superior court shall be called to hear and determine the cause as provided by law for changes of venue in causes pending in the circuit court.

(b) If the causes are alleged in the affidavit and described in IC 34-35-1-1(3), IC 34-35-1-1(4), and IC 34-35-1-1(5), the change of venue shall be granted and the cause directed to the circuit court of some other county, as provided in cases of changes of venue from the circuit court. The court to which the case is sent has jurisdiction to hear and determine the cause and render judgment.

Sec. 14. The clerk shall, under the direction of the judge, provide for the court, order books, judgment dockets, execution dockets, fee books, and other books as necessary, and all the books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 15. In a case where, under state law, a person has the right of appeal from the circuit court to the supreme court, an appeal may be had from the superior court.

Chapter 79.2. Tippecanoe Superior Court No. 2

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. There is created a court of record to be known as the Superior Court No. 2 of Tippecanoe County. The court has one (1) judge, who holds office for a term of six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified. The judge shall be elected every six (6) years at the general election.

Sec. 3. Tippecanoe County constitutes the judicial district of superior court No. 2.

Sec. 4. (a) The clerk of the Tippecanoe circuit court shall be the clerk of superior court No. 2 of Tippecanoe County and the sheriff of Tippecanoe County shall be the sheriff of superior court No. 2 of Tippecanoe County. The clerk and sheriff shall attend court and discharge all the duties pertaining to their respective office as they

are required to do by law with reference to the Tippecanoe circuit court.

(b) The judge of superior court No. 2 of Tippecanoe County shall appoint a bailiff and an official reporter for the court to serve during the court. The judge shall fix their compensation within the limits and in the manner provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Tippecanoe County, in the manner provided by law.

Sec. 5. (a) Superior court No. 2 of Tippecanoe County shall hold sessions in a place to be determined by the county council of Tippecanoe County.

(b) The board of county commissioners of Tippecanoe County shall provide and maintain in the courthouse or at another convenient place as the board of commissioners or the judge of the court may provide at the county seat:

(1) a suitable and convenient courtroom for the holding of court; and

(2) a suitable and convenient jury room and offices for the judge and the official court reporter.

(c) The board of county commissioners shall provide all necessary furniture and equipment for the rooms and offices of the court and all necessary dockets, books, and records for the court.

(d) The county council shall make the necessary appropriations from the general fund of the county for the purpose of carrying out this chapter.

Sec. 6. Superior court No. 2 of Tippecanoe County has the same original and appellate jurisdiction possessed by the Tippecanoe circuit court in civil and criminal cases, but not in matters of probate or juvenile jurisdiction.

Sec. 7. (a) The judge of superior court No. 2 of Tippecanoe County may make and adopt rules and regulations for conducting the business of superior court No. 2 of Tippecanoe County.

(b) The judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders. The judge may:

(1) administer oaths;

(2) solemnize marriages;

- (3) take and certify acknowledgments of deeds;**
- (4) give all necessary certificates for the authentication of records and proceedings of the court; and**
- (5) make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.**

Sec. 8. (a) The judge of the Superior Court No. 2 of Tippecanoe County may, with the consent of the judge of the superior court of Tippecanoe County, transfer any action, cause, or proceeding pending in superior court No. 2 of Tippecanoe County to the superior court of Tippecanoe County by transferring all original papers, instruments and orders filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court of Tippecanoe County, if:

- (1) the action, cause, or proceeding could have been originally filed and docketed in the superior court of Tippecanoe County; and**
- (2) both judges believe the transfer will expedite the disposition of the case, expedite the work of either court, or equalize the work load between the two (2) courts.**

(b) The judge of the superior court of Tippecanoe County may, with the consent of the judge of the superior court No. 2 of Tippecanoe County, transfer any action, cause, or proceeding pending in the superior court of Tippecanoe County to the superior court No. 2 of Tippecanoe County by transferring all original papers, instruments, and orders filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court No. 2 of Tippecanoe County if:

- (1) the action, cause, or proceeding could have been originally filed and docketed in the superior court No. 2 of Tippecanoe County; and**
- (2) both judges believe the transfer will expedite the disposition of the case, expedite the work of either court, or equalize the work load between the two (2) courts.**

Chapter 79.3. Tippecanoe Superior Court No. 3

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. There is established a court of record to be known as the

Tippecanoe superior court No. 3 (referred to as the court in this chapter). The court may have a seal containing the words "Tippecanoe Superior Court No. 3, Tippecanoe County, Indiana". Tippecanoe County comprises the judicial district of the court.

Sec. 3. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Tippecanoe County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must:

- (1)** be a resident of Tippecanoe County;
- (2)** be less than seventy (70) years of age at the time of taking office; and
- (3)** be admitted to the bar of Indiana.

Sec. 4. The court has the same jurisdiction as the Tippecanoe circuit court except that the court does not have probate jurisdiction.

Sec. 5. The judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Tippecanoe circuit court. The judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 6. The judge of the court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Tippecanoe circuit court. Their salaries shall be paid monthly out of the treasury of Tippecanoe County as provided by law.

Sec. 7. The clerk of the court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

Sec. 8. The court shall hold its sessions in:

- (1)** the Tippecanoe County courthouse in Lafayette; or
- (2)** other places in the county as the Tippecanoe County executive may provide.

The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as necessary. The Tippecanoe County fiscal body shall

appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

Sec. 9. The judge of the Tippecanoe circuit court or Tippecanoe superior court No. 1 or No. 2 may, with the consent of the judge of the court, transfer any action or proceeding from the circuit court or superior court No. 1 or No. 2 to the court and the judge of the court may, with consent of the judge of the circuit or other superior court, transfer any action or proceeding from the court to the circuit or other superior court, if the action or proceeding could have been originally filed in the receiving court.

Sec. 10. The judge of the Tippecanoe circuit or other superior court may, with the consent of the judge of the court, sit as a judge of the court in any matter as if an elected judge of the court. The judge of the court may, with the consent of the judge of the circuit or other superior court, sit as a judge of the circuit or other superior court in any matter as if an elected judge of the circuit or other superior court.

Sec. 11. The jury commissioners appointed by the judge of the Tippecanoe circuit court shall serve as the jury commissioners for the court. Juries shall be selected in the same manner as juries for the Tippecanoe circuit court. The grand jury selected for the Tippecanoe circuit court shall also serve as the grand jury for the court as necessary.

Sec. 12. The judge of the court may adopt rules for conducting the business of the court, consistent with the laws and court rules of Indiana. However, when adopting local rules to govern in all the courts of record in the county, the judges of the circuit and superior courts shall act in concert. If there is a disagreement, the decision of a majority of the judges controls. If there is a tie, the decision joined by the circuit court judge controls.

Chapter 79.4. Tippecanoe Superior Courts No. 4, No. 5, and No. 6

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. There are established three (3) courts of record to be known as:

- (1) Tippecanoe superior court No. 4;
 - (2) Tippecanoe superior court No. 5; and
 - (3) Tippecanoe superior court No. 6;
- (referred to as "the court" in this chapter). Tippecanoe superior

court No. 4, No. 5, and No. 6 may each have a seal containing the words "Tippecanoe Superior Court No. (Insert Court Division Number), Tippecanoe County, Indiana". Tippecanoe County comprises the judicial district of each court.

Sec. 3. (a) Tippecanoe superior court No. 4, No. 5, and No. 6 each has one (1) judge, who shall be elected at the general election every six (6) years in Tippecanoe County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must be:

- (1)** a resident of Tippecanoe County;
- (2)** less than seventy (70) years of age at the time of taking office; and
- (3)** admitted to the bar of Indiana.

Sec. 4. (a) Except as provided in subsection (b), each court has the same jurisdiction as the Tippecanoe circuit court.

(b) Tippecanoe superior court No. 4, No. 5, and No. 6 do not have probate or juvenile jurisdiction.

Sec. 5. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 have the same powers relating to the conduct of the business of Tippecanoe superior court No. 4, No. 5, and No. 6 as the judge of the Tippecanoe circuit court. The judge of each court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 6. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6:

- (1)** shall each appoint a bailiff and an official court reporter for the court; and
- (2)** may each appoint other court personnel necessary to facilitate and transact the business of the court.

A person appointed under this section serves at the pleasure of the judge appointing the person. Their salaries shall be fixed in the same manner as the salaries of the bailiff, official court reporter, and other personnel for the Tippecanoe circuit court. Their salaries shall be paid monthly out of the treasury of Tippecanoe County as provided by law.

Sec. 7. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 shall jointly appoint one (1) full-time magistrate under

IC 33-23-5. The magistrate continues in office until jointly removed by the judges of the courts.

Sec. 8. The clerk of the circuit court, under the direction of the judge of a court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

Sec. 9. Each court shall hold its sessions in the Tippecanoe County courthouse in Lafayette or in other places in the county that the Tippecanoe County executive may provide. The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary for each court. The Tippecanoe County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

Sec. 10. The jury commissioners appointed by the judge of the Tippecanoe circuit court shall serve as the jury commissioners for Tippecanoe superior court No. 4, No. 5, and No. 6. Juries shall be selected in the same manner as juries for the Tippecanoe circuit court. The grand jury selected for the Tippecanoe circuit court shall also serve as the grand jury for a court as may be necessary.

Sec. 11. The judge of the Tippecanoe circuit court or another superior court in the county may, with the consent of the judge of Tippecanoe superior court No. 4, No. 5, or No. 6, transfer any action or proceeding from the circuit court to Tippecanoe superior court No. 4, No. 5, or No. 6. The judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may, with the consent of the judge of the circuit court or the judge of another superior court in the county, transfer any action or proceeding from Tippecanoe superior court No. 4, No. 5, or No. 6 to the circuit court or the other superior court in the county.

Sec. 12. The judge of the Tippecanoe circuit court or another superior court in the county may, with the consent of the judge of Tippecanoe superior court No. 4, No. 5, or No. 6, sit as a judge of the court in any matter as if the judge of the circuit court or the other superior court were an elected judge of Tippecanoe superior court No. 4, No. 5, or No. 6. The judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may, with consent of the judge of the circuit court or the judge of another superior court in the county, sit as a judge of the circuit court or the other superior court in any

matter as if the judge of Tippecanoe superior court No. 4, No. 5, or No. 6 were an elected judge of the circuit court or the other superior court.

Sec. 13. Tippecanoe superior court No. 4, No. 5, and No. 6 each has a standard small claims and misdemeanor division.

Sec. 14. (a) Except as provided in this section, a judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may adopt rules for conducting business in the court.

(b) Rules adopted under this section must be consistent with the laws of Indiana and the rules adopted by the supreme court.

(c) When adopting local rules to govern in all the courts of record in the county, the judge of the circuit court and the judges of all superior courts in the county shall act in concert. If there is a disagreement, the decision of a majority of the judges controls. If there is a tie, the decision joined by the circuit court judge controls.

(d) The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 shall jointly adopt rules to provide for the coordination and conduct of the standard small claims and misdemeanor divisions in the courts.

Sec. 15. (a) The judges of Tippecanoe superior court No. 4, No. 5, and No. 6, by rules jointly adopted by the courts, shall designate one (1) of the judges of the courts as presiding judge for the standard small claims and misdemeanor divisions of the courts.

(b) The presiding judge shall insure that the standard small claims divisions operate efficiently.

Chapter 80. Tipton County

Sec. 1. (a) Tipton County constitutes the thirty-sixth judicial circuit.

(b) The Tipton circuit court has a standard small claims and misdemeanor division.

Chapter 81. Union County

Sec. 1. (a) Union County constitutes the eighty-ninth judicial circuit.

(b) The Union circuit court has a standard small claims and misdemeanor division.

Chapter 82. Vanderburgh County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Vanderburgh County constitutes the first judicial circuit.

Sec. 3. The judge of the Vanderburgh circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

Sec. 4. All inherent powers of judicial mandate in Vanderburgh County remain vested in the judges of the county.

Sec. 5. There is established a superior court in Vanderburgh County that consists of seven (7) judges who hold office for six (6) years and until their successors are elected and qualified.

Sec. 6. (a) The judges of the Vanderburgh superior court may jointly appoint not more than four (4) full-time magistrates under IC 33-23-5.

(b) A magistrate continues in office until jointly removed by the judges.

Sec. 7. The court shall be known as the Vanderburgh Superior Court.

Sec. 8. The court shall have a seal consisting of a circular disk containing the words "Vanderburgh Superior Court", "Indiana", and "Seal", and a design as the court may determine, an impression of which shall be spread of record upon the order book of the court.

Sec. 9. (a) The superior court has:

(1) original, appellate, concurrent, and coextensive jurisdiction with the circuit court in all civil cases and criminal cases;

(2) jurisdiction concurrent and coextensive with the circuit court in all cases of appeal from boards of county commissioners and city courts, and

(3) all other appellate jurisdiction vested in the circuit court.

(b) The superior court has original and exclusive jurisdiction in all matters pertaining to:

(1) the probate and the settlement of decedents' estates, trusts, and guardianships;

(2) the probate of wills, proceedings to resist probate of wills, and proceedings to contest wills;

(3) the appointment of guardians, assignees, executors, administrators, and trustees;

(4) the administration and settlement of estates of protected persons (as defined in IC 29-3-1-13) and deceased persons, and of trusts, assignments, adoptions, and surviving

partnerships; and
(5) all other probate matters.

Sec. 10. The superior court has exclusive juvenile jurisdiction in Vanderburgh County.

Sec. 11. The superior court is a court of record and its judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the circuit court.

Sec. 12. (a) The judges of the superior court may make and adopt rules and regulations for conducting the business of the court and have the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders.

(b) The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 13. The judges of the superior court have the same powers to grant restraining orders and injunctions; to issue writs of habeas corpus; to appoint receivers, masters, and commissioners to convey real property; to grant commissions for the examination of witnesses; to appoint other officers necessary to facilitate and transact the business of the court as conferred on circuit courts or the judges of the circuit court; and to appoint officers necessary to facilitate the business of the superior court.

Sec. 14. (a) The Vanderburgh superior court shall hold sessions in the Vanderburgh County courthouse in Evansville or its replacement.

(b) The board of county commissioners of Vanderburgh County shall:

(1) provide and maintain in the courthouse suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, offices for the judges, secretaries, and official court reporters, and other facilities as necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of the court.

Sec. 15. The clerk, under the direction of the superior court, shall provide:

- (1) order books;
- (2) judgment dockets;
- (3) execution dockets;
- (4) fee books; and
- (5) other books, papers, and records necessary for the court.

All books, papers and proceedings of the court shall be kept distinct and separate from those of other records.

Sec. 16. The superior court shall maintain order books as the court determines necessary for the entire court. An order book may be signed on behalf of the court by any of the sitting judges of the court and the signature constitutes authentication of the actions of each of the judges in the court.

Sec. 17. Each judge of the superior court shall appoint a court reporter, a bailiff, and a riding bailiff for the court whose salaries shall be fixed by the court and paid as provided by law and who serves at the pleasure of the judge making the appointment.

Sec. 18. The superior court may appoint additional officers and personnel as necessary for the proper administration of the duties of the court, whose salaries shall be fixed by the court and who serve at the pleasure of the court.

Sec. 19. The court shall appoint probation officers who shall perform the same duties and receive the same compensation as is provided by law.

Sec. 20. All laws of the state and all rules adopted by the supreme court governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court are applicable to and govern the superior court.

Sec. 21. (a) The clerk of the Vanderburgh circuit court and the jury commissioners appointed by the Vanderburgh circuit court shall serve as jury commissioners for the superior court. The issuing and servicing of process shall be governed by the procedure specified in IC 33-28-4-3 for the circuit court. The selection of jurors may be made either:

- (1) as specified for the circuit court in IC 33-28-4-3; or
- (2) from a list of persons in the county who are at least

eighteen (18) years of age and who hold a valid license issued by the bureau of motor vehicles under IC 9-24.

(b) The jurors do not have to serve in any particular order in which they are drawn by the jury commissioners.

(c) Any judge of the court may order the selection and summoning of other jurors for the court whenever necessary. The jurors summoned under this subsection shall serve the entire court and before any judge of the court where their service may be required.

(d) The contractor operating a license branch under IC 9-16 for Vanderburgh County shall, not later than January 1 of each year, provide to the jury commissioners of the Vanderburgh superior courts a list of all persons at least eighteen (18) years of age who hold a valid license issued by the bureau of motor vehicles.

Sec. 22. Any party may appeal to the supreme court or the court of appeals from any order or judgment of the superior court in any case where an appeal may be had from a similar order or judgment of the circuit court. The appeal is governed by the law and rules governing appeals to the court of appeals and the supreme court.

Sec. 23. The process of the superior court must have the seal affixed and be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.

Sec. 24. The superior court, by rules adopted by the court, shall designate one (1) of the judges as presiding judge and fix the time the presiding judge presides. The presiding judge is responsible for the operation and conduct of the court and to seeing that the court operates efficiently and judicially.

Sec. 25. When any action of the entire court is required, the sitting judges of the court shall act in concert. If there is a disagreement, the decision of the majority of the sitting judges controls.

Sec. 26. The judge of the circuit court may, with the consent of the superior court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court.

Sec. 27. Any judge of the superior court may, with the consent

of the judge of the circuit court transfer any action, cause, or proceeding filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the circuit court.

Sec. 28. The judge of the Vanderburgh circuit court may sit as a judge of the superior court, with the court's permission, in all matters pending before the superior court, without limitation and without any further order, in the same manner as if the judge were a judge of the superior court with all the rights and powers as if the judge were an elected judge of the superior court.

Sec. 29. The superior court shall submit its budget estimates annually to the auditor of the county for presentment and approval by the county council, as provided in IC 36-2-5.

Sec. 30. The Vanderburgh superior court has a standard small claims and misdemeanor division.

Sec. 31. (a) The judge of the Vanderburgh circuit court and each of the seven (7) judges of the Vanderburgh superior court shall be elected in nonpartisan elections every six (6) years.

(b) During the period under IC 3-8-2-4 in which a declaration of candidacy may be filed for a primary election, any person desiring to become a candidate for any one (1) of the eight (8) judgeships affected by this chapter shall file with the election division a declaration of candidacy adapted from the form prescribed under IC 3-8-2, signed by the candidate and designated which judgeship the candidate seeks. Any petition without the designation shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2). To be eligible for election, a candidate must be:

- (1)** domiciled in the county of Vanderburgh;
- (2)** a citizen of the United States; and
- (3)** admitted to the practice of law in Indiana.

(c) If an individual who files a declaration under subsection (b) ceases to be a candidate after the final date for filing a declaration under subsection (b), the election division may accept the filing of additional declarations of candidacy for that judgeship not later than noon August 1.

(d) All candidates for each respective judgeship shall be listed

on the general election ballot in the form prescribed by IC 3-11-2, without party designation. The candidate receiving the highest number of votes for each judgeship shall be elected to that office.

(e) IC 3, where not inconsistent with this chapter, applies to elections under this chapter.

Chapter 83. Vermillion County

Sec. 1. (a) Vermillion County constitutes the forty-seventh judicial circuit.

(b) The Vermillion circuit court has a standard small claims and misdemeanor division.

Chapter 84. Vigo County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Vigo County constitutes the forty-third judicial circuit.

Sec. 3. There is established a court of record to be known as the Vigo superior court. The superior court has four (4) judges who shall hold their office for six (6) years and until their successors have been elected and qualified.

Sec. 4. The superior court shall have a seal consisting of a circular disk containing the words "Vigo Superior Court of Indiana", and a design as the court may determine, an impression of which shall be spread of record upon the order book of the court.

Sec. 5. The superior court has the same jurisdiction as the Vigo circuit court.

Sec. 6. The judgments, decrees, orders, and proceedings of the superior court have the same force and effect and shall be enforced in the same manner as those of the circuit court.

Sec. 7. The judges of the superior court may make and adopt rules and regulations for conducting the business of the court and have all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all records and proceedings in the court.

Sec. 8. The judges of the superior court have the same powers to grant restraining orders and injunctions; to issue writs of habeas corpus; to appoint receivers, masters, and commissioners to convey real property; to grant commissions for the examination of witnesses; to appoint other officers necessary to facilitate and

transact the business of the court as conferred on circuit courts or the circuit court judges; and to appoint such officers necessary to facilitate the business of the court.

Sec. 9. (a) The superior court may appoint commissioners, probate commissioners, referees, juvenile referees, bailiffs, court reporters, probation officers, and other personnel, including an administrative officer, as the court believes are necessary to facilitate and transact the business of the court. The salaries of the personnel shall be fixed and paid as provided by law. However, if the salaries of any of the personnel are not provided by law, the amount and time of payment of the salaries shall be fixed by the court, to be paid out of the county treasury by the county auditor upon the order of the court, and be entered on record. The officers and persons appointed shall perform the duties as are prescribed by the court. Any such commissioners, probate commissioners, referees, juvenile referees, probation officers, and other personnel appointed by the court serve at the pleasure of the court.

(b) Any probate commissioner appointed by the court may be vested by the court with all suitable powers for the handling and management of the probate and guardianship matters of the court, including the fixing of all bonds, the auditing of accounts of estates and guardianships and trusts, acceptance of reports, accounts, and settlements filed in the court, the appointment of personal representatives, guardians, and trustees, the probating of wills, the taking and hearing of evidence on or concerning such matters, or any other probate, guardianship, or trust matters in litigation before the court, the enforcement of court rules and regulations, and making of reports to the court, including the taking and hearing of evidence together with the commissioner's findings and conclusions, under the final jurisdiction and decision of the judges of the court.

(c) Any juvenile referee appointed by the court may be vested by the court with all suitable powers for the handling and management of the juvenile matters of the court, including the fixing of bonds, the taking and hearing of evidence on or concerning any juvenile matters in litigation before the court, the enforcement of court rules and regulations, the making of reports to the court concerning the referee's doings under final jurisdiction and decision of the judges of the court.

(d) A probate commissioner and juvenile referee may summon witnesses to testify before the commissioner and juvenile referee, administer oaths, and take acknowledgments in connection with and in furtherance of their duties and powers.

Sec. 10. (a) The Vigo superior court shall hold its sessions in the Vigo County courthouse or its replacement in Terre Haute.

(b) The board of county commissioners of Vigo County shall:

(1) provide and maintain in the courthouse suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, offices for the judges, secretaries, and official court reporters, and other facilities as may be necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of the court.

Sec. 11. The clerk, under the direction of the superior court, shall provide:

(1) order books;

(2) judgment dockets;

(3) execution dockets;

(4) fee books; and

(5) other books, papers, and records;

as may be necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other records.

Sec. 12. The superior court shall maintain order books as the court may determine necessary for the entire court, which may be signed on behalf of the court by any of the sitting judges of the court. The signature constitutes authentication of the actions of each of the judges in the court.

Sec. 13. Each judge of the superior court shall appoint a court reporter, a bailiff, and a secretary for the court whose salaries shall be fixed by the court and paid as provided by law, and who serve at the pleasure of the judge making the appointment.

Sec. 14. The superior court may appoint additional officers and personnel as may be necessary for the proper administration of the duties of the court, whose salaries shall be fixed by the court and who serve at the pleasure of the court.

Sec. 15. The superior court shall appoint probation officers who shall perform the same duties and receive the same compensation

as is provided by law.

Sec. 16. The clerk of the Vigo circuit court and the jury commissioners appointed by the Vigo circuit court shall serve as jury commissioners for the superior court and shall be governed in all respects as provided for the selection of jurors and the issuing and servicing of process. However, the jurors need not serve in any particular order in which they are drawn by the jury commissioners. In addition, any judge of the superior court may order the selection and summoning of other jurors for the court whenever necessary and the jurors shall serve the entire court and before any judge of the court where their service is required.

Sec. 17. The process of the superior court must have the seal affixed and be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.

Sec. 18. The superior court, by rules adopted by the court, may designate one (1) of the judges as presiding judge and fix the time the presiding judge presides. The presiding judge is responsible for the operation and conduct of the court and seeing that the court operates efficiently and judicially.

Sec. 19. The judges of the superior court may sit en banc and act in concert. The judge of the circuit court may also sit en banc with the judges of the superior court. If there is a disagreement while sitting en banc, the decision of the majority of the judges controls. However, in the absence of a majority, the decision of the presiding judge controls.

Sec. 20. The judge of the Vigo circuit court may sit as a judge of the superior court, with the court's permission, in all matters pending before the superior court, without limitation and without any further order, in the same manner as if the judge were an elected judge of the superior court.

Sec. 21. Vigo superior court has a standard small claims and misdemeanor division.

Chapter 85. Wabash County

Sec. 1. Wabash County constitutes the twenty-seventh judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Wabash superior court.

(b) The Wabash superior court is a standard superior court as described in IC 33-29-1.

(c) Wabash County comprises the judicial district of the court.

Sec. 3. The Wabash superior court has one (1) judge who shall hold sessions in:

(1) the Wabash County courthouse in Wabash; or

(2) other places in the county that the Wabash County executive provides.

Sec. 4. The Wabash superior court has the same jurisdiction as the Wabash circuit court.

Sec. 5. The Wabash superior court has a standard small claims and misdemeanor division.

Chapter 86. Warren County

Sec. 1. (a) Warren County constitutes the twenty-first judicial circuit.

(b) The Warren circuit court has a standard small claims and misdemeanor division.

Chapter 87. Warrick County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Warrick County constitutes the second judicial circuit.

Sec. 3. There are established two (2) courts of record to be known as "Warrick superior court No. 1" and "Warrick superior court No. 2".

Sec. 4. Each superior court shall have a seal consisting of a circular disk containing the words "Warrick Superior Court No. 1" or "Warrick Superior Court No. 2" and a design as each court may determine.

Sec. 5. Each superior court's judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the circuit court.

Sec. 6. Each superior court has the same jurisdiction as the Warrick circuit court.

Sec. 7. (a) The judge of the circuit court may, with the consent of a superior court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding, without further transcript, to be redocketed and disposed of as if originally filed with the court.

(b) The judge of a superior court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceeding filed and docketed in the court to the circuit court by transferring

all original papers and instruments filed in the action, cause, or proceeding, without further transcript, to be redocketed and disposed of as if originally filed with the circuit court.

(c) The judge of a superior court may, with the consent of the judge of the other superior court, transfer any action, cause, or proceeding filed and docketed in the court to the other court to be redocketed and disposed of as if originally filed with the other court.

Sec. 8. (a) The judge of the Warrick circuit court may, with a superior court's permission, sit and act as a judge of the superior court in all matters before the court, without limitation and without any further order in the same manner and with all the rights and powers as if the judge were an elected judge of the superior court.

(b) The judge of the Warrick superior court No. 1 or Warrick superior court No. 2 may, with the circuit court's permission, sit and to act as a judge of the circuit court in all matters pending before the circuit court, without limitation and without any further order in the same manner and with all the rights and powers as if the judge were the elected judge of the circuit court.

(c) The judge of a superior court may, with the consent of the judge of the other superior court, sit as a judge of the other court in any manner as if elected as the judge of the other court.

Sec. 9. (a) The Warrick superior court No. 1 or Warrick superior court No. 2 may make rules for conducting the business of the court.

(b) The Warrick superior court No. 1 or the Warrick superior court No. 2 may issue warrants and issue and direct all processes that are necessary in exercising the jurisdiction conferred under this chapter. The Warrick superior court No. 1 or Warrick superior court No. 2 may make all proper judgments, sentences, decrees, and orders, issue all process, and do all acts necessary or proper to carry the jurisdiction conferred under this chapter into effect.

(c) The Warrick superior court No. 1 or the Warrick superior court No. 2 has the same power as the circuit court or a judge of the circuit court in relation to the attendance of witnesses, the punishment of contempts, and the enforcing of a court's orders. The Warrick superior court No. 1 or Warrick superior court No.

2 may administer oaths and give all necessary certificates for the authentication of the records and proceedings of the court.

Sec. 10. There shall be one (1) judge of the Warrick superior court No. 1 and one (1) judge of the Warrick superior court No. 2 who shall hold office for six (6) years, beginning on the first day of January after a judge's election and until the judge's successor is elected and qualified.

Sec. 11. The judge of the Warrick superior court No. 1 and the Warrick superior court No. 2 shall be subject to all disciplinary rules promulgated by the supreme court.

Sec. 12. The voters of Warrick County shall elect every six (6) years a judge for the Warrick superior court No. 1 and a judge for the Warrick superior court No. 2 at the general election.

Sec. 13. To be eligible to hold office as a superior court judge, a person must:

- (1) be a resident of Warrick County;
- (2) be less than seventy (70) years of age at the time of taking office; and
- (3) be admitted to the practice of law in Indiana.

Sec. 14. Any vacancy occurring in the office of the judge of the superior court shall be filled by appointment by the governor in the same manner as are vacancies in the office of the judge of the circuit court.

Sec. 15. Warrick superior court No. 1 has a standard small claims and misdemeanor division. Warrick superior court No. 2 has a standard small claims and misdemeanor division.

Sec. 16. (a) All laws and rules adopted by the supreme court enacted governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court are applicable to and govern the superior courts.

(b) Notwithstanding subsection (a), in cases on the civil small claims docket, the following exceptions to the laws and rules described in subsection (a) apply:

- (1) A defendant is considered to have complied with the statute and rule requiring the filing of an answer upon

entering the defendant's appearance personally or by attorney. An appearance is considered a general denial and preserves all defenses and compulsory counterclaims that may then be presented at the trial of the cause.

(2) If at the trial of the cause the court determines that the complaint is so vague and ambiguous that the defendant was unable to determine the nature of plaintiff's claim or that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated, the court shall grant a continuance.

(3) The trial must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law, and may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence except provisions relating to privileged communications and offers of compromise.

Sec. 17. Whenever a trial by jury is demanded, a judge of the superior court may call a jury from the list provided and used by the circuit court, although the filing of a small claim shall be considered a waiver of trial by jury by the plaintiff. The defendant may, not later than ten (10) days after being served, make demand for a trial by jury by affidavit stating that there are questions of fact requiring a trial by jury, specifying them, and stating that the demand is intended in good faith. The court shall then cause the claim to be transferred to the regular docket and the defendant shall pay the filing fee charged for filing civil actions in circuit court. Upon transfer a claim loses its status as a small claim and is subject to all ordinary rules and procedure.

Sec. 18. When the judgment or order in the small claims division of the superior court is against the defendant, the defendant shall pay the judgment or order immediately or at any time and upon such terms and conditions as the judge prescribes. If the judge orders that the judgment shall be paid in specified installments, the judge may stay the issuance of execution and other supplementary process during compliance with the order. The stay may be modified or vacated by the court.

Sec. 19. All judgments rendered in the small claims division of a superior court shall be properly recorded in the judgment docket book of the court. The judgments are liens on real estate in the

same manner as judgments in a court of general jurisdiction become liens on real estate under IC 34-55-9.

Sec. 20. An appeal of a judgment from a standard small claims and misdemeanor division of a superior court shall be taken in the same manner and under the same rules and statutes and with the same assessment of costs as cases appealed from the circuit courts. The appeal in a small claims case must be commenced and perfected within thirty (30) days after the entry of judgment or the right to appeal is waived.

Sec. 21. Each superior court shall appoint a bailiff, a court reporter, and the additional personnel necessary to carry out the business of the court. The duties, salaries, and terms of the bailiff and recorder shall be regulated in the same manner as provided for the circuit court.

Sec. 22. (a) Warrick superior court No. 1 and Warrick superior court No. 2 shall hold sessions in:

- (1) the Warrick County courthouse in Boonville; or
- (2) any other place in Warrick County as the board of county commissioners may provide.

(b) The board of county commissioners of Warrick County shall:

- (1) provide and maintain a suitable and convenient courtroom for the holding of a superior court, suitable and convenient jury rooms, offices for the judges and official court reporters, and other facilities as may be necessary; and
- (2) provide all the necessary furniture and equipment for the rooms and offices of a court.

(c) The county council shall appropriate sufficient funds for the rooms, facilities, furniture, and equipment.

Chapter 88. Washington County

Sec. 1. (a) Washington County constitutes the forty-second judicial circuit.

(b) The Washington circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as the Washington superior court.

(b) The Washington superior court is a standard superior court as described in IC 33-29-1.

(c) Washington County comprises the judicial district of the

court.

Sec. 3. The Washington superior court has one (1) judge who shall hold sessions in:

- (1) the Washington County courthouse in Salem; or
- (2) other places in the county that the Washington County executive may provide.

Sec. 4. The Washington superior court has the same jurisdiction as the Washington circuit court, except that the circuit court has juvenile jurisdiction.

Sec. 5. The Washington superior court has a standard small claims and misdemeanor division.

Chapter 89. Wayne County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Wayne County constitutes the seventeenth circuit.

Sec. 3. There is established a court of record to be known as the Wayne superior court No. 1. The court consists of one (1) judge, who shall hold office for six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor has been elected and qualified. The judge shall be elected every six (6) years at the general election.

Sec. 4. Wayne County constitutes the judicial district of the Wayne superior court No. 1.

Sec. 5. The judge of the superior court shall appoint a bailiff and an official court reporter for the court, to serve during the pleasure of the court. The judge shall fix their per diem or salary within the limits and in the manner as provided by law concerning bailiffs and official court reporters. The bailiff and court reporter shall be paid monthly out of the treasury of Wayne County in the manner provided by law.

Sec. 6. (a) The superior court shall hold its sessions in the Wayne County courthouse in Richmond.

(b) The board of commissioners of Wayne County shall:

- (1) provide and maintain in the courthouse:
 - (A) a suitable and convenient courtroom for the holding of the court; and
 - (B) a suitable and convenient jury room and offices for the presiding judge and the official court reporter; and
- (2) shall provide all necessary furniture and equipment for the rooms and offices and all necessary dockets, books, and

records for the court.

Sec. 7. The Wayne superior court No. 1 has the same jurisdiction as the Wayne circuit court.

Sec. 8. (a) The judge of the Wayne superior court No. 1:

(1) may make and adopt rules and regulations for conducting the business of the Wayne superior court; and

(2) has all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and the enforcement of its orders.

(b) The judge of the court may:

(1) administer oaths;

(2) solemnize marriages;

(3) take and certify acknowledgment of deeds;

(4) give all necessary certificates for the authentication of records and proceedings of the court; and

(5) make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Chapter 89.2. Wayne Superior Court No. 2

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. There is established a court of record to be known as the Wayne superior court No. 2. The court has one (1) judge, who shall hold office for a term of six (6) years, beginning on the first day of January after the judge's election and until the judge's successor is elected and qualified. The judge of the court shall be elected every six (6) years at the general election.

Sec. 3. Wayne County constitutes the judicial district of the Wayne superior court No. 2. The court shall have a seal containing the words "Wayne Superior Court No. 2, of Wayne County, Indiana."

Sec. 4. The judge of the Wayne superior court No. 2 shall appoint a bailiff and an official court reporter for the court, to serve at the pleasure of the court. The judge shall fix their compensation within the limits and in the manner as may be provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Wayne County in the manner provided by law.

Sec. 5. The terms of the Wayne Superior Court No. 2 shall be held in a judicial district under IC 33-23-2.

Sec. 6. (a) The Wayne superior court No. 2 shall hold its sessions in a place to be determined by the county council of Wayne County.

(b) The board of county commissioners of Wayne County:

(1) shall provide and maintain in the courthouse:

(A) a suitable and convenient courtroom for the holding of court; and

(B) suitable and convenient jury room and offices for the judge and the official court reporter; and

(2) shall provide all necessary furniture and equipment for the rooms and offices of the court, and all necessary dockets, books, and records for the court.

(c) The county council shall make the necessary appropriations from the general fund of the county for the purpose of carrying out this chapter.

Sec. 7. The Wayne superior court No. 2 has the same jurisdiction as the Wayne circuit court.

Sec. 8. The judge of the Wayne superior court No. 2:

(1) may make and adopt rules and regulations for conducting the business of the Wayne superior court No. 2;

(2) has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders; and

(3) may administer oaths, solemnize marriages, take and certify acknowledgments of deeds, give all necessary certificates for the authentication of records and proceedings of the court, and make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Sec. 9. Jury commissioners for Wayne superior court No. 2 shall be selected in the same manner, to the same effect, and subject to the same limitations as those selected for the Wayne superior court No. 1.

Sec. 10. All laws governing the powers, duties, and procedure of jury commissioners in circuit courts and the duties of the clerk of the court pertaining to selection of juries and other laws pertaining to the drawing and recording of names of prospective petit jurors, govern the jury commissioners appointed and the selection of petit jurors in the Wayne superior court No. 2.

Chapter 89.3. Wayne Superior Court No. 3

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. There is established a court of record having general jurisdiction to be known as the Wayne superior court No. 3 (referred to as "the court" in this chapter). The court may have a seal containing the words "Wayne Superior Court No. 3, Wayne County, Indiana". Wayne County comprises the judicial district of the court.

Sec. 3. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Wayne County. The judge's term begins January 1 following the judge's election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must:

- (1)** be a resident of Wayne County;
- (2)** be less than seventy (70) years of age at the time the person takes office;
- (3)** be admitted to the bar of Indiana; and
- (4)** have practiced law at least five (5) years.

Sec. 4. The court has the same jurisdiction as the Wayne circuit court and Wayne superior courts No. 1 and No. 2.

Sec. 5. The judge of the court has the same powers relating to the conduct of business of the court as the judge of the Wayne circuit court and the judges of Wayne superior courts No. 1 and No. 2. The judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt, and the power to enforce the judge's orders. The judge may administer oaths, solemnize marriages, take and certify acknowledgements of deeds, and give all necessary certificates for the authentication of records and proceedings of the judge's court.

Sec. 6. The judge of the court may appoint a bailiff, official court reporter, referee, commissioner, and any other personnel as the judge considers necessary to facilitate and transact the business of the court. The judge of the court shall fix their compensation within the limits and in the manner as provided by law concerning these officers and employees. These personnel serve at the pleasure of the court and are paid monthly in the manner of payment for officers and employees of Wayne circuit court and Wayne superior courts No. 1 and No. 2.

Sec. 7. The clerk, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

Sec. 8. (a) The court shall hold its sessions in a place to be determined and provided by the county council of Wayne County.

(b) The board of county commissioners of Wayne County:

(1) shall provide and maintain in the courthouse a suitable and convenient courtroom for holding the court and suitable and convenient jury room and offices for the judge, official court reporter, and staff of the court; and

(2) shall provide all necessary furniture and equipment for the rooms, offices, and employees of the court and all necessary dockets, books, and records for the court.

(c) The county council shall make all necessary appropriations from the general fund of the county for the purpose of carrying out this chapter.

Sec. 9. Jury commissioners for the Wayne circuit court shall be jury commissioners for the court.

Sec. 10. The judges of the Wayne circuit court and Wayne superior courts No. 1 and No. 2 may, with the consent of the judge of the court, sit as judge of the court in any matter in the small claims and minor offenses division of the court, as if the judge were an elected judge of the court.

Sec. 11. The judges of the Wayne circuit court and Wayne superior courts No. 1 and No. 2 may, with the consent of the judge of the court, transfer any action, cause, or proceeding filed and docketed in the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, to the court by transferring all original papers and instruments filed in such an action, cause, or proceeding. The action, cause, or proceeding shall be treated as if originally filed with the court. The judge of the court may, with the consent of the judge of the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, transfer any action, cause, or proceeding filed and docketed in the court, except a cause properly docketed in the small claims or minor offenses division of the court, to the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, by transferring all original papers and instruments filed in the action, cause, or proceeding. The

action, cause, or proceeding shall be treated as if originally filed with the transferee court. However, if any cause, action, or proceeding transferred under this section is later transferred on change of venue to a court of another county or if any cause is appealed to the court of appeals or supreme court of Indiana, then the party taking the change of venue or appeal may have a transcript made of the proceedings in each court, certified by the clerk of that court. The transcript has the same force and effect and gives the court to which it is taken on change of venue or appeal the same jurisdiction, as though this transcript had been originally made when the cause was transferred to the transferee court.

Sec. 12. The Wayne superior court No. 3 has a standard small claims and misdemeanor division.

Chapter 90. Wells County

Sec. 1. Wells County constitutes the twenty-eighth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Wells superior court.

(b) The Wells superior court is a standard superior court as described in IC 33-29-1.

(c) Wells County comprises the judicial district of the court.

Sec. 3. The Wells superior court has one (1) judge who shall hold sessions in:

(1) the Wells County courthouse in Bluffton; or

(2) other places in the county that the Wells County executive may provide.

Sec. 4. The Wells superior court has the same jurisdiction as the Wells circuit court, except that the circuit court has juvenile jurisdiction.

Sec. 5. The Wells superior court has a standard small claims and misdemeanor division.

Chapter 91. White County

Sec. 1. White County constitutes the thirty-ninth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the White superior court.

(b) The White superior court is a standard superior court as described in IC 33-29-1.

(c) White County comprises the judicial district of the court.

Sec. 3. The White superior court has one (1) judge who shall hold sessions in:

- (1) the White County courthouse in Monticello; or**
- (2) other places in the county that the board of county commissioners of White County may provide.**

Sec. 4. The White superior court has the same jurisdiction as the White circuit court.

Sec. 5. The White superior court has a standard small claims and misdemeanor division.

Chapter 92. Whitley County

Sec. 1. Whitley County constitutes the eighty-second judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Whitley superior court.

(b) The Whitley superior court is a standard superior court as described in IC 33-29-1.

(c) Whitley County comprises the judicial district of the court.

Sec. 3. The Whitley superior court has one (1) judge who shall hold sessions in:

- (1) the Whitley County courthouse in Columbia City; or**
- (2) other places in the county that the board of county commissioners of Whitley County may provide.**

Sec. 4. (a) If the Whitley county executive establishes the position of small claims referee to serve the Whitley superior court, the judge of the Whitley superior court may appoint a part-time small claims referee under IC 33-29-3 to assist the court in the exercise of its small claims jurisdiction.

(b) The small claims referee is entitled to reasonable compensation not exceeding twenty thousand dollars (\$20,000) as recommended by the judge of the Whitley superior court to be paid by the county after the compensation is approved by the county fiscal body. The state shall pay fifty percent (50%) of the salary set under this subsection and the county shall pay the remainder of the salary.

(c) The Whitley County executive shall provide and maintain a suitable courtroom and facilities for the use of the small claims referee, including furniture and equipment, as necessary.

(d) The Whitley superior court shall employ administrative staff necessary to support the functions of the small claims referee.

(e) The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

Sec. 5. The Whitley superior court has the same jurisdiction as the Whitley circuit court, except that the circuit court has juvenile jurisdiction.

Sec. 6. The Whitley superior court has a standard small claims and misdemeanor division.

SECTION 13. IC 33-34 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 34. MARION COUNTY SMALL CLAIMS COURTS

Chapter 1. Establishment and General Provisions

Sec. 1. As used in this article, "judge" means the judge of a small claims court established under this chapter unless otherwise indicated.

Sec. 2. (a) There are established township small claims courts in each county containing a consolidated city.

(b) The name of each court shall be the "_____ Township of Marion County Small Claims Court" (insert the name of the township in the blank).

Sec. 3. The small claims court is not a court of record.

Sec. 4. The small claims court shall meet in continuous session.

Sec. 5. The judge of the circuit court shall extend aid and assistance to the judges in the conduct of the township small claims courts.

Sec. 6. A division of the small claims court must be a full-time division or a part-time division as determined by the individual township boards following the hearing provided for in section 7 of this chapter.

Sec. 7. In 1975, a hearing was conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public on the question of whether a small claims court division should be established in the township, in each township with a population of less than fifteen thousand (15,000) persons, whether the division should be full time or part time, the location of the division courtroom and offices, and other relevant matters.

Sec. 8. The township trustee shall give ten (10) days notice of all hearings held under section 7 of this chapter in one (1) or more newspapers of general circulation in the county.

Sec. 9. Not more than two (2) weeks following a hearing held under section 7 of this chapter, the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order as to:

- (1) whether a small claims court division shall be established in the township if the township has a population of less than fifteen thousand (15,000) persons;
- (2) whether the division, if any, shall function full time or part time;
- (3) the location of the division courtroom and offices under IC 33-34-6-1; and
- (4) other relevant matters.

Chapter 2. Judges

Sec. 1. A judge shall be elected at the general election every four (4) years by the registered voters residing within the township in which the division of the small claims court is located.

Sec. 2. A judge must meet the qualifications prescribed by IC 3-8-1-30.

Sec. 3. The term of office of a judge is four (4) years, beginning January 1 after election and continuing until a successor is:

- (1) elected; and
- (2) qualified.

Sec. 4. (a) The circuit court judge may establish a regular hourly schedule for the performance of duties by full-time or part-time township small claims courts and each judge shall maintain that schedule.

(b) If the circuit court judge does not establish a regular hourly schedule, the judge shall perform the judge's duties at regular, reasonable hours.

(c) Regardless of whether a regular hourly schedule has been established as set forth in subsection (a), a judge shall hold sessions in addition to the judge's regular schedule whenever the business of the judge's court requires.

Sec. 5. (a) The salary of a judge who serves full time must be in an amount determined by the township board of the township in which the small claims court is located.

(b) The salary of each judge who serves part time must be in an amount determined by the township board and approved by the city-county council.

(c) The salary of a judge may not be reduced during the judge's term of office.

(d) At any other time, salaries of any full-time or part-time judge may be increased or decreased by the township board of the township in which the small claims court is located.

Sec. 6. (a) The annual salary of a judge shall be paid in twelve (12) equal monthly installments by the township trustee.

(b) The judge may not receive remuneration other than a salary set under section 5 of this chapter for the performance of the judge's official duties except payments for performing marriage ceremonies.

Sec. 7. (a) A judge serving part-time may participate in other gainful employment if the employment does not:

- (1) interfere with the exercise of the judge's judicial office; or
- (2) involve any conflict of interest in the performance of the judge's judicial duties.

(b) A judge serving full time may practice law if the practice does not conflict in any way with the judge's official duties and does not:

- (1) cause the judge to be unduly absent from the court; or
- (2) interfere with the ready and prompt disposal of the judge's judicial duties.

Sec. 8. The:

- (1) judge of a small claims court; and
- (2) employees of the court;

may be eligible to participate in the public employees' retirement fund as provided in IC 5-10.3, but a judge is not eligible to participate as a member in the judges' retirement fund under IC 33-38.

Sec. 9. (a) A vacation of one (1) month per year shall be provided for a judge who serves in a full-time capacity.

(b) The circuit court judge may authorize the appointment of a judge pro tempore to handle the judicial business of the vacationing judge, if the circuit court judge considers it necessary.

Sec. 10. (a) A judge is subject to disciplinary action for the grounds and in the manner set forth in IC 33-38-14.

(b) The commission on judicial qualifications for judges of the superior and probate courts is the commission on judicial qualifications for the judges of the small claims courts.

Sec. 11. Before assuming the duties of a judge, a judge must take an oath to:

- (1) faithfully perform the duties of the judge's office; and
- (2) support and defend to the best of the judge's ability the constitution and laws of Indiana and the United States.

Sec. 12. (a) A judge shall:

(1) furnish a bond in a sum required by the circuit court judge to provide for the:

- (A) faithful discharge of the duties of the office; and
- (B) payment or delivery to the proper persons of whatever money or other property may come into the judge's hands when acting as judge; and

(2) file the bond with the county recorder.

The bond must also extend to cover a person that is appointed to act as judge under IC 33-34-5-4.

Sec. 13. (a) A judge shall procure a seal that will stamp upon paper a distinct impression of words and letters. The seal must contain the words "_____ Township of Marion County Small Claims Court" (insert the name of the township in the blank).

(b) Deeds, mortgages, powers of attorney, state warrants, and all other instruments of writing pertaining to the judge's official duty, attested by the seal and signature of the judge, are presumptive evidence of the official character of the court or judge in all courts in Indiana without further authentication.

Sec. 14. (a) The resignation of a judge shall be delivered to the clerk of the circuit court. The clerk shall advise the circuit court and appropriate township board.

(b) A vacancy occurring in a judgeship must be filled under IC 3-13-10.

Chapter 3. Jurisdiction, Rules, and Procedure

Sec. 1. (a) Except for a claim between landlord and tenant, a case within the jurisdiction of a small claims court may be:

- (1) venued;
- (2) commenced; and
- (3) decided;

in any township small claims court within the county. However, upon a motion for change of venue filed by the defendant within ten (10) days of service of the summons, the township small claims

court shall determine in accordance with subsection (b) whether required venue lies with the court or with another small claims court in the county in which the small claims court action was filed.

(b) The venue determination to be made under subsection (a) must be made in the following order:

(1) In an action upon a debt or account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.

(2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.

(3) Venue is in the township (in a county of the small claims court) where the greater percentage of individual defendants included in the complaint resides, or, if there is not a greater percentage, the place where any individual named as a defendant:

(A) resides;

(B) owns real estate; or

(C) rents an apartment or real estate or where the principal office or place of business of any defendant is located.

(4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims court sits in which required venue lies.

(c) Venue of any claim between landlord and tenant must be in the township where the real estate is located.

(d) If a written motion challenging venue is received by the small claims court, the court shall rule whether required venue lies in the township of filing.

Sec. 2. The court has original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed six thousand dollars (\$6,000), not including interest or attorney's fees.

Sec. 3. The court has original and concurrent jurisdiction with the circuit and superior courts in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed six thousand dollars (\$6,000). The court also has original and concurrent jurisdiction with the circuit and superior courts in actions for the possession of property where the value of the property sought to be recovered does not exceed six thousand

dollars (\$6,000). These jurisdictional limitations are not affected by interest and attorney's fees.

Sec. 4. The court has original and concurrent jurisdiction with the circuit and superior court in emergency possessory actions between a landlord and tenant under IC 32-31-6.

Sec. 5. The small claims court has no jurisdiction:

- (1) in actions seeking injunctive relief or involving partition of real estate;
- (2) in actions to declare or enforce any lien except as provided in section 14 of this chapter;
- (3) in actions in which the appointment of a receiver is asked; or
- (4) in suits for dissolution or annulment of marriage.

Sec. 6. The judge of the circuit court, assisted by the judges of the small claims court, shall make and adopt uniform rules for conducting the business of the small claims court:

- (1) according to a simplified procedure; and
- (2) in the spirit of sections 7 and 9 of this chapter.

Sec. 7. A simplified procedure shall be established by rule to enable any person, including the state, to:

- (1) file the necessary papers; and
- (2) present the person's case in court;

either to seek or to defend against a small claim without consulting or being represented by an attorney.

Sec. 8. (a) Upon the filing of a complaint, service of original process shall be attempted by personal service of the summons and complaint on the defendant, which may include leaving a copy of the service at the last known place of residence of the party if the process server properly describes on the return the residence, noting any of its unique features, and mailing by first class a copy of the service without charge to the party at the same last known place of residence.

(b) If service cannot be made in this manner, service of process shall be made in an alternate manner as provided by the Indiana Rules of Civil Procedure.

(c) Subsequent service of process, other than that originally served upon filing of the complaint, may be made by registered or certified mail or another manner authorized by the Indiana Rules of Civil Procedure.

Sec. 9. A trial:

- (1) must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law; and
- (2) may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence, except the provisions relating to privileged communications and offers of compromise.

Sec. 10. There may not be a trial by jury in the small claims court.

Sec. 11. (a) A filing of a civil claim in the small claims court constitutes a waiver of trial by jury by the plaintiff.

(b) A defendant in a small claims case waives the right to trial by jury unless the defendant requests a jury trial at least three (3) calendar days before the trial date that appears on the complaint. Upon the filing of a jury trial request, the small claims court shall transfer the claim to the superior court of the county. The defendant shall pay all costs necessary for filing the claim in the superior court as if the cause had been filed initially in that court.

(c) A notice of claim filed in the small claims court must include a statement that reflects the provisions of subsection (b).

Sec. 12. The small claims court shall take judicial notice of municipal, city, and town ordinances.

Sec. 13. (a) If the judgment or order is against the defendant, the defendant shall pay the judgment at any time and upon terms and conditions as the judge orders.

(b) If the judge orders that the judgment be paid in specified installments, the judge may stay the issuance of execution and other supplementary process during the period of compliance with the order.

(c) A stay ordered under subsection (b) may be modified or vacated by the court.

Sec. 14. (a) All judgments rendered in civil actions may be recorded in the judgment docket book of the proper division of the small claims court.

(b) A judgment entered by a small claims court is a lien on real estate when entered in the circuit court judgment docket in the same manner as a judgment in a court of general jurisdiction becomes a lien on real estate under IC 34-55-9.

(c) The clerk of the small claims court shall keep a docket in which judgments shall be entered and properly indexed in the name of the judgment defendant as judgments of circuit courts are entered and indexed.

Sec. 15. (a) All appeals from judgments of the small claims court shall be taken to the superior court of the county and tried de novo.

(b) The rules of procedure for appeals must be in accordance with the rules established by the superior court.

(c) The appellant shall pay all costs necessary for the filing of the case in the superior court, as if the appeal were a case that had been filed initially in that court.

Chapter 4. Powers

Sec. 1. A judge may:

- (1) administer oaths;
- (2) take and certify acknowledgements of deeds; and
- (3) give all necessary certificates for the authentication of the records and proceedings of the small claims court.

Sec. 2. The small claims court has the same power as the circuit court in relation to the:

- (1) attendance of witnesses;
- (2) punishment of contempts; and
- (3) enforcement of its orders.

Sec. 3. A judge may:

- (1) issue and direct all process to individuals and corporations necessary to exercise the jurisdiction of the court;
- (2) make all proper judgment, sentences, decrees, and orders; and
- (3) do all acts necessary or proper in conformity with state laws;

assisted as necessary by the clerk of the circuit court.

Sec. 4. Each judge may solemnize marriages.

Chapter 5. Transfer of Cases, Absent Judge, and Special Judge

Sec. 1. The circuit court judge may transfer cases from one (1) township small claims court to another as necessary.

Sec. 2. A judge of the circuit or superior court may order a cause filed in the circuit or superior court to be transferred to the small claims court if the:

- (1) small claims court has jurisdiction of the cause concurrent with the circuit or superior court; and

(2) judge consents to the transfer.

Sec. 3. The judges of the small claims court may sit in place of each other and perform each other's duties:

(1) at the direction of or with the approval of the circuit court judge; and

(2) with the consent of the respective judges.

Sec. 4. (a) If a judge is unable to preside over the judge's division of the small claims court during any number of days, the judge may appoint in writing a person qualified to be a small claims judge under IC 33-34-2-2 to preside in place of the judge.

(b) The written appointment shall be entered on the order book or record of the circuit court. The appointee shall, after taking the oath prescribed for the judges, conduct the business of the division subject to the same rules and regulations as judges and has the same authority during the continuance of the appointee's appointment.

(c) The appointee is entitled to the same compensation from the township trustee as accruable to the small claims judge in whose place the appointee is serving.

Sec. 5. (a) A judge absent from the bench for more than thirty (30) days shall deposit the dockets, books, and papers of the office with the:

(1) small claims judge of another division; or

(2) circuit court;

as directed by the circuit court judge.

(b) A:

(1) judge with whom the docket of another judge is deposited during a vacancy or an absence; and

(2) successor of any judge who has the dockets of the successor's predecessor in the successor's possession;

may perform all duties that the judge might do legally in relation to the judge's own dockets.

(c) Process shall be returned to the judge who has the legal custody of the docket at the day of return.

Sec. 6. (a) Only another judge may serve as a special judge in the small claims court.

(b) Except for mileage and travel expense, a judge serving as a special judge under this section may not receive compensation in addition to the salary provided under this article.

Chapter 6. Facilities and Personnel

Sec. 1. The township trustee shall provide a courtroom for each division and an office for each judge in a convenient location within the township that has:

- (1) adequate access;**
- (2) sufficient parking facilities;**
- (3) a separate and appropriate courtroom;**
- (4) proper space and facilities for the bailiff, clerks, and other employees; and**
- (5) enough room for files and supplies.**

Sec. 2. A township shall:

- (1) furnish all:**
 - (A) supplies, including all blanks, forms, stationery, and papers of every kind, required for use in all cases in the township division of the small claims court; and**
 - (B) furniture, books, and other necessary equipment and supplies; and**
- (2) provide for all necessary maintenance and upkeep of the facilities where court is held.**

Sec. 3. Each township shall provide an appropriate and competitive salary of at least five thousand six hundred dollars (\$5,600) for the number of clerks for the small claims court sufficient to:

- (1) operate efficiently; and**
- (2) adequately serve the citizens doing business with the court.**

Sec. 4. (a) The voters of each township having a small claims court shall elect a constable for the small claims court at the general election every four (4) years for a term of office of four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. The ballot must state the:

- (1) name of the candidate; and**
 - (2) court for which the candidate is to serve.**
- (b) Each small claims court shall have a constable who:**
- (1) acts as the bailiff of the court;**
 - (2) serves the court's personal service of process;**
 - (3) has police powers to:**
 - (A) make arrests;**
 - (B) keep the peace; and**
 - (C) carry out the orders of the court;**

- (4) must meet the qualifications prescribed by IC 3-8-1-31;**
- (5) is compensated for each process that is delivered to effect personal service when serving as the bailiff for the court;**
- (6) is responsible for:**
 - (A) the preparation and mailing of all registered or certified service and is compensated for each process served by mail; and**
 - (B) all the official acts of the deputies;**
- (7) is compensated solely from the service of process fees collected under IC 33-34-8-1; and**
- (8) may require a deputy to give a bond for the proper discharge of the deputy's duties for an amount fixed by the constable.**

(c) The elected constable may appoint full-time and part-time deputies for assistance in the performance of official duties who:

- (1) perform all the official duties required to be performed by the constable;**
- (2) possess the same statutory and common law powers and authority as the constable;**
- (3) must take the same oath required of the constable;**
- (4) are compensated solely from the service of process fees collected under IC 33-34-8-1; and**
- (5) serve at the pleasure of the constable and may be dismissed at any time with or without cause.**

(d) If there is an:

- (1) emergency; or**
- (2) inability of a constable to carry out the constable's duties;**

the judge may appoint a special constable to carry out the duties of the constable during the emergency or inability.

Chapter 7. Records; Reports; Accounting

Sec. 1. The state board of accounts shall provide rules, in cooperation with the appropriate county officers, to specify the:

- (1) forms; and**
- (2) records;**

for the handling and reporting of money and other property by or in connection with the small claims court.

Sec. 2. Each judge shall prepare, certify, and file quarterly reports on March 31, June 30, September 30, and December 31 of each year with the circuit court judge, which must include the:

- (1) total case filings;
- (2) terminations; and
- (3) cases remaining open;

broken down by the type of case, in a form approved by and distributed under the direction of the circuit court judge.

Sec. 3. The judge of the circuit court, with the assistance of the clerk of the circuit court, the judges of the small claims courts, and the state board of accounts, shall, at the expense of the townships:

- (1) provide the forms, blanks, court calendar books, judgment dockets, and fee books; and
- (2) make rules and instructions to direct the judges in keeping records and making reports.

The clerk of the circuit court shall keep full and permanent records and reports of each judge's past and current proceedings, indexed and available for reference as a public record.

Chapter 8. Fees and Costs

Sec. 1. (a) The following fees and costs apply to cases in the small claims court:

- (1) A township docket fee of five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.
- (2) The bailiff's service of process by registered or certified mail fee of thirteen dollars (\$13) for each service.
- (3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars (\$13) for each service.
- (4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.
- (5) A redocketing fee, if any, of five dollars (\$5).
- (6) A document storage fee under IC 33-37-5-20.
- (7) An automated record keeping fee under IC 33-37-5-21.
- (8) A late fee, if any, under IC 33-37-5-22.

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

Sec. 2. The person who is designated by a judge to prepare transcripts may collect a fee of not more than five dollars (\$5) for each transcript from a person who requests the preparation of a transcript.

Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the _____ County Small Claims Court _____ Division (with the name of the county and township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

- (1)** semiannually distribute to the auditor of state all automated record keeping fees received by the court for deposit in the state user fee fund established under IC 33-37-9; and
- (2)** distribute monthly to the county auditor all document storage fees received by the court. The county auditor shall deposit fees distributed under this subdivision into the clerk's record perpetuation fund under IC 33-37-5-2.

Sec. 4. Fees, costs, and any other amounts collected by the courts shall be accounted for quarterly to the clerk of the circuit court on:

- (1)** March 31;
- (2)** June 30;
- (3)** September 30; and
- (4)** December 31;

of each year.

SECTION 14. IC 33-35 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 35. CITY AND TOWN COURTS

Chapter 1. Establishment; Election of Judges

Sec. 1. (a) During every fourth year after 1986, a second or third class city or a town may by ordinance establish or abolish a city or town court. An ordinance to establish a city or town court must be adopted not less than one (1) year before the judge's term would begin under section 3 of this chapter.

(b) The judge for a court established under subsection (a) shall be elected under IC 3-10-6 or IC 3-10-7 at the municipal election

in November 1987 and every four (4) years thereafter.

(c) A court established under subsection (a) comes into existence on January 1 of the year following the year in which a judge is elected to serve in that court.

(d) A city or town court in existence on January 1, 1986, may continue in operation until it is abolished by ordinance.

(e) A city or town that establishes or abolishes a court under this section shall give notice of its action to the division of state court administration of the office of judicial administration under IC 33-24-6.

Sec. 2. (a) This section applies to a town that:

(1) adopts an ordinance under IC 3-10-6-2.6; and

(2) subsequently adopts an ordinance to establish a town court under section 1 of this chapter.

(b) Notwithstanding section 1 of this chapter, the judge of the town court shall be elected at the next municipal election not conducted in a general election year. The successors of the judge shall be elected at the first general election following the municipal election and every four (4) years thereafter.

Sec. 3. (a) The judge of a city or town court shall be elected under IC 3-10-6 or IC 3-10-7 by the voters of the city or town.

(b) Except as provided in subsections (c) and (d), the term of office of a judge elected under this section is four (4) years, beginning at noon January 1 after election and continuing until a successor is elected and qualified.

(c) This subsection applies to a town that adopts an ordinance under IC 3-10-6-2.6. The term of office of:

(1) a judge elected at the next municipal election not conducted in a general election year is one (1) year; and

(2) the successors to the judge described in subdivision (1) is four (4) years;

beginning at noon January 1 after election and continuing until a successor is elected and qualified.

(d) This subsection applies to a town that adopts an ordinance under IC 3-10-7-2.7. The term of office of:

(1) a judge elected at the next municipal election not conducted in a general election year is three (3) years; and

(2) the successors to the judge described in subdivision (1) is four (4) years;

beginning noon January 1 after election and continuing until a successor is elected and qualified.

(e) Before beginning the duties of office, the judge shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of the duties of office.

Sec. 4. To be eligible to hold the office of city court judge, as provided by Article 6, Section 6, of the Constitution of the State of Indiana, the judge must be a resident of the city during the term of office or the office becomes vacant.

Sec. 5. Before beginning the duties of office, the judge of a town court must:

- (1) take and subscribe to the same oath of office as judges of circuit courts; and
- (2) execute a bond payable to the town in the penal sum of five thousand dollars (\$5,000), conditioned upon the faithful performance of the duties of the judge's office with good and sufficient surety.

The bond must be approved by the legislative body of the town and filed in the office of the town clerk-treasurer.

Chapter 2. Judge's Powers and Jurisdiction

Sec. 1. (a) A judge of a city or town court:

- (1) may adopt rules for conducting the business of the court;
- (2) has all powers incident to a court of record in relation to:
 - (A) the attendance of witnesses;
 - (B) the punishment of contempts;
 - (C) the enforcement of its orders; and
 - (D) the issuance of commissions for taking depositions in cases pending in the court;
- (3) may administer oaths; and
- (4) may give all necessary certificates for the authentication of the records and proceedings of the court.

(b) If the judge is temporarily absent or unable to act, the judge shall appoint a reputable practicing attorney to preside in the judge's absence as special judge. The special judge:

- (1) has all the powers and rights; and
- (2) shall perform all the duties;

of the judge of the court as fully as the regular judge appointing the special judge.

Sec. 2. A judge of a city or town court shall provide, at the

expense of the town or city, a seal for the court that must contain on the face the words: "(Town or City) Court of _____, Indiana.". A description of the seal, together with an impress of it, shall be put on the records of the court.

Sec. 3. A city court has the following jurisdiction over crimes, infractions, and ordinance violations:

- (1) Jurisdiction of all violations of the ordinances of the city.**
- (2) Jurisdiction of all misdemeanors and all infractions.**

Sec. 4. A city court has concurrent jurisdiction with the circuit court in civil cases in which the amount in controversy does not exceed five hundred dollars (\$500). However, the city court does not have jurisdiction in actions for:

- (1) slander;**
- (2) libel;**
- (3) foreclosure of mortgage on real estate, in which the title to real estate is in issue;**
- (4) matters relating to a decedent's estate, appointment of guardians, and all related matters; and**
- (5) actions in equity.**

Sec. 5. The city court of each of the four (4) cities having the largest populations and the town court of the town having the largest population in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) have concurrent civil jurisdiction with the circuit court of the county where the amount in controversy does not exceed three thousand dollars (\$3,000). The court has jurisdiction in any action where the parties or the subject matter are in the county in which the city or town is located. However, the city or town court does not have jurisdiction in:

- (1) actions for slander or libel;**
- (2) matters relating to decedents' estates, appointment of guardians, and all related matters;**
- (3) dissolution of marriage actions; or**
- (4) injunction or mandate actions.**

Sec. 6. A city court in a third class city that is not a county seat and to which section 5 of this chapter does not apply has concurrent jurisdiction with the circuit court in civil cases in which the amount in controversy does not exceed three thousand dollars (\$3,000). However, the city court does not have:

(1) jurisdiction in actions for:

(A) slander;

(B) libel;

(C) foreclosure of mortgages on real estate, in which the title to real estate is in issue;

(D) all matters relating to a decedent's estate, appointment of guardians and all related matters; and

(E) actions in equity; and

(2) original jurisdiction in which the principal defendant resides within another city having a city court with a civil jurisdiction.

Judgments rendered in the city court, when a certified transcript is filed with the clerk of the circuit court, have the same force as judgments rendered in the circuit court.

Sec. 7. If in a proceeding in a city court the title to land is put in issue by plea supported by affidavit, or manifestly appears from the proof on trial to be in issue, the court shall, without further proceeding, certify the case and papers to the circuit or other court having jurisdiction in the county in which the case is being tried. However, if the title to land is put in issue by affidavit or verified pleading, the court shall at once hear and determine whether title is in issue, and, if the proof supports the issue, then the case shall be certified for final determination, including the issue of title.

Sec. 8. (a) A town court has exclusive jurisdiction of all violations of the ordinances of the town.

(b) A town court also has jurisdiction of all misdemeanors and all infractions.

Chapter 3. Personnel; Expenses; Costs

Sec. 1. (a) The officers of a city court are a:

(1) judge;

(2) clerk; and

(3) bailiff.

However, in third class cities, the judge may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as clerk of the court or appoint a clerk of the court, the city clerk-treasurer elected under IC 3-10-6 shall perform the duties of the clerk of the city court.

(b) The clerk is an officer of a town court. The judge of a town court may act as clerk and perform all duties of the clerk of the

court or appoint a clerk of the court. If the judge does not act as a clerk of the court or appoint a clerk of the court, the town clerk-treasurer elected under IC 3-10-6 or IC 3-10-7 shall perform the duties of the clerk of the town court.

(c) The clerk and bailiff may not receive any fees or compensation other than their salaries.

Sec. 2. (a) In second class cities, the city clerk is the clerk of the city court. The city clerk of a third class city is the clerk of the city court if the judge does not serve as clerk or appoint a clerk under section 1 of this chapter.

(b) A city clerk of a second class city, a city clerk-treasurer of a third class city, or an appointed clerk in a third class city who serves as the clerk of the city court shall give bond as prescribed in this chapter.

(c) The clerk may administer oaths.

(d) The clerk of a city or town court shall:

(1) issue all process of the court, affix the seal of the court to the process, and attest to the process;

(2) keep a complete record and docket of all cases showing:

(A) the name of a person who was arrested and brought before the court;

(B) the disposition of the case; and

(C) an account of the:

(i) fees;

(ii) fines;

(iii) penalties;

(iv) forfeitures;

(v) judgments;

(vi) executions;

(vii) decrees; and

(viii) orders;

in as near to the same manner as the records are kept by the clerk of the circuit court; and

(3) collect all:

(A) fees;

(B) fines;

(C) penalties and forfeitures;

(D) judgments;

(E) executions; and

(F) money;

accruing to the city or town from the enforcement of ordinances.

(e) At the close of each week, the clerk shall make and deliver to the city controller of a second class city, clerk-treasurer of a third class city, or clerk-treasurer of a town a written report of all cases in which the clerk has received or collected any fines or forfeitures due the city or town. The clerk shall then pay over the money to the controller or clerk-treasurer and take a receipt for the payment.

(f) At the end of each month, the clerk shall make out and deliver to the county treasurer of the county in which the city or town is located a written report of all cases in which the clerk has received or collected any fines or forfeitures due the state during the month and pay to the county treasurer all fines or forfeitures collected, taking a receipt for the payment.

(g) In cities in which the county treasurer rather than the city controller receives city money for deposit, the clerk shall report and deliver the money to the county treasurer.

(h) The clerk shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The clerk shall distribute the state and county share of court costs collected in accordance with IC 33-37-7-7 or IC 33-37-7-8.

Sec. 3. (a) The bailiff of a city court must be a police officer of the city assigned to the court by the chief of police, under direction of the board of public safety. However, the judge of the city court may appoint another person to serve as bailiff.

(b) The bailiff shall give bond payable to the city in the penal sum of one thousand dollars (\$1,000), with surety to be approved by the mayor, conditioned on the faithful and honest discharge of the bailiff's duties. The bond shall be filed in the office of the controller or clerk-treasurer.

(c) The bailiff shall do the following:

(1) Be present at the sessions of the court, maintaining order and performing all other duties subject to the order of the court.

(2) Take charge of all executions issued by the court and see to the collection of the executions.

(3) Keep, in books to be furnished by the controller or clerk-treasurer, an accurate account and docket of all

executions that come into the bailiff's hands, showing the:

- (A) names of the defendants;
- (B) date and number of the execution;
- (C) amount of fines, fees, or penalties imposed; and
- (D) disposition of the execution.

(4) Make and deliver a written report to the clerk of the court on Tuesday of each week, showing all money collected by the bailiff during the previous week, giving the:

- (A) names of the defendants;
- (B) number of executions; and
- (C) amount of fines, fees, or penalties collected;

and pay the money to the clerk, taking the clerk's receipt for the payments.

(d) The salary of the bailiff shall be fixed as salaries of other police officers are fixed.

(e) The bailiff of a city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall be appointed by the judge of the court. The bailiff shall serve and execute all processes issued by the court and is entitled to receive a salary fixed by the common council of the city. In addition, the bailiff may collect a fee from a defendant for the bailiff's own use on all execution sales of property under an execution or attachment as follows:

- (1) On the first fifty dollars (\$50), ten percent (10%).
- (2) On more than fifty dollars (\$50) and not more than three hundred dollars (\$300), five percent (5%).
- (3) On all sums over three hundred dollars (\$300), three percent (3%).
- (4) Any additional sum necessarily expended by the bailiff in collecting the judgment.

A bailiff may use the bailiff's private vehicle in the performance of the bailiff's duties and is entitled to receive a sum for mileage equal to the sum paid per mile to state officers and employees. The payment to the bailiff is subject to the approval of the judge. The judge shall include in the budget for the court sufficient money to provide for the anticipated claims of the bailiff. The common council shall make annual appropriations that are necessary to carry out this subsection.

Sec. 4. The town marshal or a deputy marshal shall serve all process issuing from the town court.

Sec. 5. (a) The common council of a city having a city court may create the position of city court referee to assist the city court judge in the administration of the judge's duties and the disposition of matters pending in the court. The common council may authorize more than one (1) referee. After authorization is granted, the judge shall appoint one (1) or more referees. The referee or referees serve at the pleasure of the judge.

(b) A referee shall take the same oath of office as provided for the judge and must have the same qualifications for office as required for the judge. A referee may administer oaths in the performance of the referee's duty and use the seal of the court. In all cases coming before the referee, the referee shall comply with the requirements of procedure provided for the hearing of cases by the court. The referee shall make a return of the referee's findings and recommendations in writing to the court, and the court shall proceed to enter the order, judgment, or decree that the court considers proper.

(c) The salary of a referee shall be fixed by the judge subject to the approval of the common council of the city. The common council shall appropriate sufficient money to pay the referee.

Sec. 6. (a) The prosecuting attorney of the judicial circuit in which the city is located shall prosecute all cases in a city court for violation of statutes.

(b) The city attorney shall prosecute all cases of city ordinance violations.

Sec. 7. A judge of a city or town court shall provide, at the expense of the city or town, all books, dockets, papers, and printed blanks necessary for the discharge of the duties of the court.

Sec. 8. (a) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(b) If the party instituting an action or proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee prescribed under IC 33-37-4-5 or

IC 33-37-4-6.

(c) Money paid in advance for costs remaining unexpended at the time an action or a proceeding is terminated, whether by reason of dismissal or otherwise, shall be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of the state's political subdivisions.

(d) This section expires July 1, 2005.

Sec. 9. (a) This section applies after June 30, 2005.

(b) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(c) If the party instituting an action or a proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee and the small claims service fee prescribed under IC 33-37-4-5 or IC 33-37-4-6.

(d) Money paid in advance for costs remaining unexpended at the time a civil action or proceeding is terminated, whether by reason of dismissal or otherwise, must be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of the state's political subdivisions.

Chapter 4. Court Sessions; Compensation; Restrictions on Activities of Judges

Sec. 1. (a) A city court judge shall hold regular sessions of the city court at a place to be provided and designated by the legislative body of the city.

(b) A town court judge shall hold sessions of the town court as the business of the court demands at a place to be provided and designated by the legislative body of the town.

Sec. 2. (a) Special judges of a city court are entitled to the compensation allowed special judges in the circuit court, to be paid out of the city treasury on the certificate of the regular judge and the warrant of the city controller or clerk-treasurer.

(b) A city court judge may not receive any fees or compensation other than the judge's salary, as established under subsection (e).

(c) A city court judge of each of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is entitled to receive, for additional services that this article requires to be performed, three thousand five hundred dollars (\$3,500) per year in addition to the salary otherwise provided. The fiscal body of the city shall appropriate the money necessary to pay the additional compensation.

(d) A town court judge is entitled to receive the compensation that is prescribed by the fiscal body of the town.

(e) A city court judge is entitled to receive compensation that is prescribed by the fiscal body of the city.

Sec. 3. A city court judge may not act as attorney, agent, or counsel for the applicant in a proceeding to procure a license to retail or wholesale intoxicating liquors under IC 7.1 or aid or assist in any manner in the procuring of such a license. A person who recklessly violates this section commits a Class B misdemeanor.

Chapter 5. Records; Procedures; Practices

Sec. 1. City courts are governed by the laws and rules governing the practice, pleading, and processes in circuit courts.

Sec. 2. A change of venue may not be taken from a city or town court. However, a defendant may take a change of venue from the judge of the court, with a special judge appointed as provided for the circuit court.

Sec. 3. All warrants or other processes issued by the city court must be:

- (1) directed to the chief of police of the city or any person specially deputized by the city court; and
- (2) executed, served, and returned by the chief, by any police officer of the city, or by the specially deputized person.

The members of the police force of the city shall cause all persons arrested by the police force for a violation of any law to be taken before the city court for trial or examination.

Sec. 4. (a) City courts of the three (3) cities having the largest populations in counties having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall keep the following books of record on the civil side of the court:

- (1) A loose leaf minute book, similar to that kept by the circuit

court, each case to be numbered consecutively in order of its filing.

(2) Index and cross-index book, containing the names of all parties to each action with the number of the case opposite the name.

(3) A fee book as is provided for city courts.

(4) An order book in which all orders of a cause are written consecutively when final judgment or order is entered.

(b) The case should bear the same number as originally given to the case when filed and must be arranged in the order book consecutively according to the original number given to the case when filed. All orders, proceedings, records of issuing execution, returns of execution, and satisfactions of execution shall be grouped together, if practical, on one (1) page or on consecutive pages when there is not sufficient room to group it on one (1) page. All costs in a cause shall be taxed on the margin of the page containing the final order or judgment. All orders not connected with a specific case, such as general appointments made by the judge, shall be entered in the minute book under a separate number and recorded in the record book under that number.

Sec. 5. All issues of fact pending in city courts shall be tried by the judge, unless either party demands a jury trial. The jury must consist of six (6) qualified voters of the city, to be summoned by the bailiff by venire issued by the judge.

Sec. 6. The style of the city or town court is "The (City or Town) Court of _____," according to the name of the city or town.

Sec. 7. (a) A city court is not a court of record.

(b) A town court is not a court of record.

(c) A person selected as judge of the following courts must be an attorney in good standing under the requirements of the supreme court:

(1) Anderson city court.

(2) Avon town court.

(3) Brownsburg town court.

(4) Carmel city court.

(5) A city or town court located in Lake County.

(6) Muncie city court.

(7) Noblesville city court.

(8) Plainfield town court.

(9) Greenwood city court.

(10) Martinsville city court.

Sec. 8. (a) All judgments, decrees, orders, and proceedings of city and town courts have the same force as those of the circuit court. A judgment becomes a lien on real estate when a transcript of the judgment is filed with the clerk of the circuit court.

(b) All orders of sale and executions affecting real estate from the city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall be issued by the clerk of the circuit court to the sheriff upon the filing of a certified copy of the judgment. When the copy is filed, the court rendering the judgment has no further jurisdiction of the case except to furnish a transcript for appeal. The life of a lien may be continued in force when the action is started in the city court, as though the action were filed in the circuit court, by filing with the clerk of the circuit court a certificate, certified to by the judge of the city court and containing:

- (1)** the names of the parties to the suit;
- (2)** the nature of the action;
- (3)** the description of the property affected; and
- (4)** the amount in controversy.

The judge shall enter minutes on the docket showing the issuing of the certificates.

Sec. 9. (a) An appeal from a judgment of a city court may be taken to the circuit or superior court of the county and tried *de novo*.

(b) An appeal from a judgment of a town court may be taken to the superior or circuit court of the county within thirty (30) days after the rendition of the judgment.

(c) A prisoner against whom punishment is adjudged by a city court may appeal to the circuit court of the county, within thirty (30) days after the judgment. If the prisoner, within the thirty (30) days, enters into recognizance for his appearance in court and causes to be filed in the court, within forty-five (45) days, all other papers, documents, and transcripts necessary to complete the appeal, the appeal stays all further proceedings on the judgment in the court below. However, the prisoner may remain in jail on the prisoner's sentence instead of furnishing a recognizance, and an

appeal without recognizance does not stay the execution of the court below.

Sec. 10. (a) A party in a civil action who desires to take an appeal from the city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall file a bond, to the approval of the city court, within thirty (30) days after the date of rendition of final judgment, and the motion to correct errors within ten (10) days after the rendition of final judgment. The transcript and motion shall be filed in the court to which the appeal is taken within thirty (30) days after the motion has been signed by the court.

(b) All errors saved shall be reviewed as far as justice warrants, and for that purpose, a complete transcript of all the evidence is not required. An error occurring during the trial, not excepted to at the time, may be made available upon appeal by setting it forth in a motion for a new trial. Upon application within the time fixed, either of the parties to the suit may obtain either:

(1) a correct statement, to be prepared by the party requesting the signing of the same, of the facts in a narrative form appearing on the trial and of all questions of law involved in the case and the decisions of the court upon the questions of law; or

(2) a correct stenographic report;

and the expense of procuring the correct statement or correct stenographic report shall be paid by the party requesting the correct statement or correct stenographic report.

(c) The appeal shall be:

(1) submitted on the date filed in the court to which the appeal is taken;

(2) advanced on the docket of that court; and

(3) as determined at the earliest practical date, without any extension of time for filing of briefs;

but the court to which an appeal is taken may, on application, hear oral arguments.

(d) If judgment is affirmed on appeal, it may be increased by ten percent (10%), in addition to any interest that may be allowed, if the appeal is found to be frivolous.

(e) A change of venue may be taken from the judge to whom the

case is appealed as provided by law for taking changes of venue from the judge of the circuit court.

(f) The court to which an appeal is taken shall render its opinion in abbreviated form by simply citing the controlling authorities in the case, unless it appears that some new question of practice, procedure, or law is involved that would warrant a more extensive opinion.

SECTION 15. IC 33-36 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 36. ORDINANCE VIOLATIONS BUREAUS

Chapter 1. Definitions

Sec. 1. The definitions in IC 36-1-2 apply throughout this article.

Chapter 2. Establishment

Sec. 1. The legislative body of a municipal corporation may establish, by ordinance or code, an ordinance violations bureau. Upon the creation of a bureau, the legislative body shall provide for the appointment of a violations clerk (who may be the clerk or clerk-treasurer of the municipal corporation) to be the administrator of the bureau.

Sec. 2. If the legislative body does not establish an ordinance violations bureau under section 1 of this chapter, the clerk or clerk-treasurer of the municipal corporation is designated the violations clerk for purposes of this chapter.

Sec. 3. The violations clerk may accept:

- (1) written appearances;
- (2) waivers of trial;
- (3) admissions of violations; and
- (4) payment of civil penalties of not more than one hundred dollars (\$100);

in ordinance violation cases, subject to the schedule prescribed under IC 33-36-3 by the legislative body.

Chapter 3. Schedule of Ordinance and Code Provisions; Violations

Sec. 1. (a) Upon the appointment or designation of the violations clerk as provided by IC 33-36-2-1, the legislative body shall designate, by ordinance or code, a schedule of ordinance and code provisions of the municipal corporation that are subject to admission of violation before the violations clerk and the amount

of civil penalty to be assessed to a violator who elects to admit a violation under this chapter.

(b) Civil penalties shall be paid to, receipted by, and accounted for by the clerk under procedures provided for by the state board of accounts. Payment of civil penalties under this chapter may be made in person, by mail, or to an agent or agents designated by the legislative body.

Sec. 2. A person charged with an ordinance or a code violation is entitled to a trial before a court as provided by law, unless the person waives the right to trial and enters an admission of the violation with the violations clerk. Upon an admission, the clerk shall assess and receive from the violator the amount prescribed by the schedule of civil penalties established under section 1 of this chapter.

Sec. 3. If a person charged with a violation wants to exercise the right to trial, the person shall appear before the violations clerk and deny the violation or enter a written denial with the clerk.

Sec. 4. In a county having a consolidated city, the schedule of ordinance violations designated by a municipal corporation under this chapter must also be approved by the city-county legislative body.

Sec. 5. (a) If a person:

- (1) denies an ordinance or code violation under this article;
- (2) fails to satisfy a civil penalty assessed by the violations clerk after having entered an admission of violation; or
- (3) fails to deny or admit the violation under this article;

the clerk shall report this fact to the official having the responsibility to prosecute ordinance violation cases for the municipal corporation.

(b) Proceedings in court against the person shall then be initiated for the alleged ordinance violation.

Sec. 6. (a) An ordinance violation admitted under this article does not constitute a judgment for the purposes of IC 33-37. An ordinance violation costs fee may not be collected from the defendant under IC 33-37-4.

(b) An ordinance violation processed under this chapter may not be considered for the purposes of IC 33-37-7-5 or IC 33-37-7-6 when determining the percentage of ordinance violations prosecuted in certain courts.

Sec. 7. All sums collected by the violations clerk as civil penalties for ordinance violations shall be accounted for and paid to the municipal corporation as provided by law.

SECTION 16. IC 33-37 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 37. COURT FEES

Chapter 1. Applicability and Definitions

Sec. 1. This article applies to all proceedings in the following courts:

- (1) Circuit courts (Article 7, Section 7 of the Constitution of the State of Indiana, IC 33-28, and IC 33-33).**
- (2) Superior courts (IC 33-29 and IC 33-33).**
- (3) County courts (IC 33-30).**
- (4) Probate courts (IC 33-31).**
- (5) City and town courts (IC 33-35).**

Sec. 2. As used in this article, "clerk" refers to any of the following:

- (1) A clerk of a circuit court under IC 33-32-2-1.**
- (2) The clerk of a city or town court under IC 33-35.**
- (3) The judge of a city or town court that does not have a clerk.**

Sec. 3. The costs imposed by this article are for all proceedings in the action.

Sec. 4. (a) If publication by notice is required by law in any action, the party or the attorney for the party from whom the notice is required shall pay the cost of publication directly to the publisher of the notice.

(b) The party or the attorney for the party shall file with the clerk proof of publication of the notice.

Chapter 2. General Court Costs Provisions for Criminal Actions

Sec. 1. This chapter applies in criminal actions.

Sec. 2. (a) Costs in a criminal action are not a part of the sentence and may not be suspended. However, if:

- (1) two (2) or more charges against a person are joined for trial; and**
- (2) the person is convicted of two (2) or more offenses in the trial;**

the court may waive the person's liability for costs for all but one

(1) of the offenses.

(b) If a person is acquitted or an indictment or information is dismissed by order of the court, the person is not liable for costs.

Sec. 3. (a) When the court imposes costs, it shall conduct a hearing to determine whether the convicted person is indigent. If the person is not indigent, the court shall order the person to pay:

- (1) the entire amount of the costs at the time sentence is pronounced;
- (2) the entire amount of the costs at some later date; or
- (3) specified parts of the costs at designated intervals.

(b) Upon any default in the payment of the costs:

- (1) an attorney representing the county may bring an action on a debt for the unpaid amount; or
- (2) the court may direct that the person, if the person is not indigent, be committed to the county jail and credited toward payment at the rate of twenty dollars (\$20) for each twenty-four (24) hour period the person is confined, until the amount paid plus the amount credited equals the entire amount due.

(c) If, after a hearing under subsection (a), the court determines that a convicted person is able to pay part of the costs of representation, the court shall order the person to pay an amount of not more than the cost of the defense services rendered on behalf of the person. The clerk shall deposit the amount paid by a convicted person under this subsection in the county's supplemental public defender services fund established under IC 33-40-3-1.

(d) A person ordered to pay part of the cost of representation under subsection (c) has the same rights and protections as those of other judgment debtors under the Constitution of the State of Indiana and Indiana law.

Sec. 4. (a) The state shall pay all costs of trial in a prosecution for an offense committed:

- (1) by an inmate of a state correctional facility; and
- (2) in the county in which the correctional facility is located.

(b) The costs of trial to be paid under this section include:

- (1) court fees; and
- (2) expenses incurred by the county sheriff in returning the defendant to the jurisdiction of the court and keeping the

defendant in custody until trial.

Sec. 5. The fees prescribed by IC 33-37-4-1 are costs and may be collected from a defendant against whom a conviction is entered. A fine or penalty imposed is in addition to costs.

Chapter 3. General Court Costs Provisions for Civil Actions

Sec. 1. (a) The fees prescribed in civil actions or paternity actions may not be collected from the state or a political subdivision in an action brought by or on behalf of the state or the political subdivision.

(b) This section does not prevent collecting fees from a defendant when the state or political subdivision is successful in its action.

Sec. 2. A person entitled to bring a civil action or to petition for the appointment of a guardian under IC 29-3-5 may do so without paying the required fees or other court costs if the person files a statement in court, under oath and in writing:

- (1)** declaring that the person is unable to make the payments or to give security for the payments because of the person's indigency;
- (2)** declaring that the person believes that the person is entitled to the redress sought in the action; and
- (3)** setting forth briefly the nature of the action.

Sec. 3. (a) When an offender confined by the department of correction commences an action or a proceeding without paying fees or other court costs under section 2 of this chapter, the offender shall obtain from the appropriate official of the correctional facility or facilities at which the offender is or was confined a certified copy of the prisoner's trust fund account statement for the six (6) months immediately preceding submission of the complaint or petition. The offender shall file the trust fund account statement in addition to the statement required under section 2 of this chapter.

(b) The offender shall pay a partial filing fee that is twenty percent (20%) of the greater of:

- (1)** the average monthly deposits to the offender's account; or
 - (2)** the average monthly balance in the offender's account;
- for the six (6) months immediately preceding the filing of the complaint or petition. However, the fee may not exceed the full statutory fee for the commencement of actions or proceedings.

(c) If the offender claims exceptional circumstances that render the offender unable to pay the partial filing fee required by this section, in addition to the statement required by section 2 of this chapter and the statement of account required by subsection (a), the offender shall submit an affidavit of special circumstances setting forth the reasons and circumstances that justify relief from the partial filing fee requirement.

(d) If the court approves the application to waive all fees, the court shall give written notice to the offender that all fees and costs relating to the filing and service will be waived. If the court denies the application to waive all fees, the court shall give written notice to the offender that the offender's case will be dismissed if the partial filing fee is not paid not later than forty-five (45) days after the date of the order, or within an additional period that the court may, upon request, allow. Process concerning the offender's case may not be served until the fee is paid.

Sec. 4. A party for whom judgment is entered in a civil action is entitled to recover costs.

Sec. 5. The prepayment of fees under this chapter is not required in an appeal of a civil matter to a circuit court from a court of inferior jurisdiction.

Sec. 6. Court costs fees under this chapter include service of process by certified mail, unless service by the sheriff is requested by the person who institutes the action.

Sec. 7. If personal service of process is carried out by a process server other than the sheriff, the party who paid for the private service is entitled to reimbursement of the cost of the private service as a part of any judgment that party may recover.

Sec. 8. Notwithstanding IC 33-37-4-4, the clerk may not collect a separate civil fee for a name change action initiated under IC 31-15-2-18.

Sec. 9. Prepayment of fees is not required in proceedings for either of the following:

(1) Adoption.

(2) The appointment of a guardian.

Chapter 4. Collection of Court Cost Fees

Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one

hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
- (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (7) A child abuse prevention fee (IC 33-37-5-12).
- (8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
- (9) A highway work zone fee (IC 33-37-5-14).
- (10) A deferred prosecution fee (IC 33-37-5-17).
- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under

this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) The clerk shall apply the partial payment to general court costs.
- (2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
- (3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.
- (4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.
- (5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) A law enforcement continuing education program fee IC 33-37-5-8(c)).
- (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

- (5) A highway work zone fee (IC 33-37-5-14).
- (6) A deferred prosecution fee (IC 33-37-5-17).
- (7) A jury fee (IC 33-19-6-17). (IC 33-37-5-19).
- (8) A document storage fee (IC 33-37-5-20).
- (9) An automated record keeping fee (IC 33-37-5-21).
- (10) A late payment fee (IC 33-37-5-22).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

- (1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (3) The deferral program fee (subsection e).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

- (1) The defendant was charged with an ordinance violation subject to IC 33-36.
- (2) The defendant denied the violation under IC 33-36-3.
- (3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-4 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

- (1) IC 31-34 (children in need of services).
- (2) IC 31-37 (delinquent children).
- (3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (6) A document storage fee (IC 33-37-5-20).
- (7) An automated record keeping fee (IC 33-37-5-21).
- (8) A late payment fee (IC 33-37-5-22).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

- (1) The marijuana eradication program fee (IC 33-37-5-7).
- (2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:

- (1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- (4) Proceedings in paternity under IC 31-14.

(5) Proceedings in small claims court under IC 33-34.

(6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A support and maintenance fee (IC 33-37-5-6).

(3) A document storage fee (IC 33-37-5-20).

(4) An automated record keeping fee (IC 33-37-5-21).

Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars (\$35). However, a clerk may not collect a small claims costs fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(c) This section expires July 1, 2005.

Sec. 6. (a) For each small claims action, the clerk shall collect from the party filing the action both of the following fees:

(1) A small claims costs fee of thirty-five dollars (\$35).

(2) A small claims service fee of five dollars (\$5) for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(c) This section applies after June 30, 2005.

Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

- (1) IC 6-4.1-5 (determination of inheritance tax).
- (2) IC 29 (probate).
- (3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A document storage fee (IC 33-37-5-20).
- (3) An automated record keeping fee (IC 33-37-5-21).

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
- (3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

Sec. 8. (a) This section applies in all actions listed in sections 4, 5, 6, and 7 of this chapter.

(b) In an action in which there has been or will be a change of venue or transfer from one (1) county to another, the clerk of the court from which the action is transferred shall collect from the party seeking change of venue a fee equal to that required by sections 4, 5, 6, and 7 of this chapter. The clerk of the transferring court shall forward the fee collected under this section to the clerk of the court to which the action is transferred.

Sec. 9. The clerk is not required to show on each receipt for court costs collected the proration of court costs:

- (1) remitted to the auditor of state, the county auditor, and the municipality as specified in IC 33-37-7; or
- (2) collected for any funds specified in IC 33-37-5.

Sec. 10. (a) Not later than seventy-five (75) days after judgment is entered in an action, the clerk shall issue an itemized fee bill for

the collection of fees that were charged against the party in that action and that remain unpaid. The clerk shall present the fee bill for collection to the sheriff of a county in which the debtor party resides or in which the debtor party has property.

(b) The sheriff shall do the following:

(1) Collect the amount due under the fee bill.

(2) Return the fee bill to the clerk not more than sixty (60) days after the day the fee bill was issued.

(c) After presented to the sheriff, a fee bill has the effect of an execution and operates as a lien upon the real and personal property of the debtor.

(d) A successor of an officer may issue fee bills for the fees of the officer's predecessors in office in the manner provided under this chapter. A clerk may issue the fee bills of the sheriff or the former sheriffs of the county in the same manner.

Chapter 5. Collection of Additional Fees

Sec. 1. (a) This section applies to a document fee for preparing a transcript or copy of any record. However, this section does not apply to either of the following:

(1) The preparation or copying of a record:

(A) through the use of enhanced access under IC 5-14-3; or

(B) by a governmental entity using an electronic device.

(2) The transmitting of a document by facsimile machine or other electronic device.

(b) Except as provided in subsection (c), the clerk shall collect a fee of one dollar (\$1) per legal size or letter size page, including a page only partially covered with writing.

(c) The legislative body of a county may adopt by ordinance a schedule of document fees to be collected by a clerk under this section. If an ordinance has been adopted, the clerk shall collect document fees according to the schedule. However, the document fee collected by the clerk under this subsection may not exceed one dollar (\$1) per legal size or letter size page, including a page only partially covered with writing.

Sec. 2. (a) Each clerk shall establish a clerk's record perpetuation fund. The clerk shall deposit all the following in the fund:

(1) Revenue received by the clerk for transmitting documents by facsimile machine to a person under IC 5-14-3.

(2) Document storage fees required under section 20 of this chapter.

(3) The late payment fees imposed under section 22 of this chapter that are authorized for deposit in the clerk's record perpetuation fund under IC 33-37-7-1 or IC 33-37-7-2.

(b) The clerk may use any money in the fund for the following purposes:

(1) The preservation of records.

(2) The improvement of record keeping systems and equipment.

Sec. 3. Notwithstanding IC 5-14-3, the clerk shall collect a document fee of one dollar (\$1) for each certificate under seal attached in authentication of a copy of any record, paper, or transcript.

Sec. 4. The clerk shall collect a document fee of three dollars (\$3) for preparing or recording a transcript of a judgment to become a lien on real estate.

Sec. 5. The clerk shall forward document fees collected under this chapter to the county auditor or city or town fiscal officer in accordance with IC 33-37-7-12(a).

Sec. 6. (a) This section applies to an action in which a final court order requires a person to pay support or maintenance payments through the clerk.

(b) The clerk shall collect a fee in addition to support and maintenance payments. The fee is the following:

(1) Twenty dollars (\$20) for the calendar year in which the initial order is entered, unless the first payment is due after June 30 of that calendar year.

(2) Ten dollars (\$10) for the calendar year in which the initial order was entered, if the first payment is due after June 30 of that calendar year.

(3) In each subsequent year in which the initial order or a modified order is in effect, twenty dollars (\$20) if the fee is paid before February 1, or thirty dollars (\$30) if paid after January 31.

(c) The fee required under subsection (b) is due at the time that the first support or maintenance payment for the calendar year in which the fee must be paid is due.

(d) The clerk may not deduct the fee from a support or

maintenance payment.

(e) Except as provided under IC 33-32-4-6, IC 33-37-7-1(g), and IC 33-37-7-2(g), the clerk shall forward the fee collected under this section to the county auditor in accordance with IC 33-37-7-12(a).

Sec. 7. (a) This section applies to criminal actions.

(b) The clerk shall collect the marijuana eradication program fee set by the court under IC 15-3-4.6-4.1 if:

(1) a weed control board has been established in the county under IC 15-3-4.6-1; and

(2) the person has been convicted of an offense under IC 35-48-4 in a case prosecuted in that county.

(c) The court may set a fee under this section of not more than three hundred dollars (\$300).

Sec. 8. (a) This section applies to criminal, infraction, and ordinance violation actions. However, it does not apply to a case excluded under IC 33-37-4-2(d).

(b) The clerk shall collect the alcohol and drug services program fee set by the court under IC 12-23-14-16 in a county that has established an alcohol and drug services program.

(c) In each action in which a defendant is found to have:

(1) committed a crime;

(2) violated a statute defining an infraction; or

(3) violated an ordinance of a municipal corporation;

the clerk shall collect a law enforcement continuing education program fee of three dollars (\$3).

Sec. 9. (a) This section applies to criminal actions.

(b) The court shall assess a drug abuse, prosecution, interdiction, and correction fee of at least two hundred dollars (\$200) and not more than one thousand dollars (\$1,000) against a person convicted of an offense under IC 35-48-4.

(c) In determining the amount of the drug abuse, prosecution, interdiction, and correction fee assessed against a person under subsection (b), a court shall consider the person's ability to pay the fee.

(d) The clerk shall collect the drug abuse, prosecution, interdiction, and correction fee set by the court when a person is convicted of an offense under IC 35-48-4.

Sec. 10. (a) The clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars (\$200) in each action

in which:

- (1) a person is found to have:
 - (A) committed an offense under IC 9-30-5;
 - (B) violated a statute defining an infraction under IC 9-30-5; or
 - (C) been adjudicated a delinquent for an act that would be an offense under IC 9-30-5, if committed by an adult; and
 - (2) the person's driving privileges are suspended by the court or the bureau of motor vehicles as a result of the finding.
- (b) The clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars (\$200) in each action in which:
- (1) a person is charged with an offense under IC 9-30-5; and
 - (2) by a plea agreement or an agreement of the parties that is approved by the court:
 - (A) judgment is entered for an offense under:
 - (i) IC 9-21-8-50;
 - (ii) IC 9-21-8-52;
 - (iii) IC 7.1-5-1-3; or
 - (iv) IC 7.1-5-1-6; and
 - (B) the defendant agrees to pay the alcohol and drug counter measures fee.

Sec. 11. (a) This section applies to an action in a circuit court in a county that has established a program under IC 9-30-9.

(b) The probation department shall collect an alcohol abuse deterrent program fee and a medical fee set by the court under IC 9-30-9-8 and deposit the fee into the supplemental adult probation services fund.

Sec. 12. The court shall order a person to pay a child abuse prevention fee of one hundred dollars (\$100) to the clerk in each criminal action in which:

- (1) the person is found to have committed the offense of:
 - (A) murder (IC 35-42-1-1);
 - (B) causing suicide (IC 35-42-1-2);
 - (C) voluntary manslaughter (IC 35-42-1-3);
 - (D) reckless homicide (IC 35-42-1-5);
 - (E) battery (IC 35-42-2-1);
 - (F) rape (IC 35-42-4-1);
 - (G) criminal deviate conduct (IC 35-42-4-2);
 - (H) child molesting (IC 35-42-4-3);

- (I) child exploitation (IC 35-42-4-4);
 - (J) vicarious sexual gratification (IC 35-42-4-5);
 - (K) child solicitation (IC 35-42-4-6);
 - (L) incest (IC 35-46-1-3);
 - (M) neglect of a dependent (IC 35-46-1-4);
 - (N) child selling (IC 35-46-1-4); or
 - (O) child seduction (IC 35-42-4-7); and
- (2) the victim of the offense is less than eighteen (18) years of age.

Sec. 13. The court shall order a person to pay a domestic violence prevention and treatment fee of fifty dollars (\$50) to the clerk in each criminal action in which:

- (1) the person is found to have committed the offense of:
 - (A) murder (IC 35-42-1-1);
 - (B) causing suicide (IC 35-42-1-2);
 - (C) voluntary manslaughter (IC 35-42-1-3);
 - (D) reckless homicide (IC 35-42-1-5);
 - (E) battery (IC 35-42-2-1);
 - (F) domestic battery (IC 35-42-2-1.3); or
 - (G) rape (IC 35-42-4-1); and
- (2) the victim:
 - (A) is a spouse or former spouse of the person who committed an offense under subdivision (1);
 - (B) is or was living as if a spouse of the person who committed the offense of domestic battery under subdivision (1)(F); or
 - (C) has a child in common with the person who committed the offense of domestic battery under subdivision (1)(F).

Sec. 14. (a) This section applies to criminal, infraction, and ordinance violation actions that are traffic offenses (as defined in IC 9-30-3-5).

(b) The clerk shall collect a highway worksite zone fee of fifty cents (\$0.50). However, the clerk shall collect a highway worksite zone fee of twenty-five dollars and fifty cents (\$25.50) if:

- (1) the criminal action, infraction, or ordinance violation is:
 - (A) exceeding a worksite speed limit (as provided in IC 9-21-5-2 and authorized by IC 9-21-5-3); or
 - (B) failure to merge (as provided in IC 9-21-8-7.5); and
- (2) the judge orders the clerk to collect the fee for exceeding

a worksite speed limit or failure to merge.

Sec. 15. (a) The sheriff shall collect from the person who filed the civil action a service of process fee of forty dollars (\$40), in addition to any other fee for service of process, if:

- (1) a person files a civil action outside Indiana; and
- (2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

(b) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

(c) The county auditor shall deposit fees collected under this section:

- (1) in the pension trust established by the county under IC 36-8-10-12; or
- (2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.

Sec. 16. In addition to any other duties, a clerk shall do the following:

- (1) Collect and transfer additional judgments to a county auditor under IC 9-18-2-41.
- (2) Deposit funds collected as judgments in the state highway fund under IC 9-20-18-12.
- (3) Deposit funds in the conservation officers fish and wildlife fund under IC 14-22-38-4, IC 14-22-38-5, and IC 14-22-40-8.
- (4) Deposit funds collected as judgments in the state general fund under IC 34-28-5-4.

Sec. 17. (a) This section applies to actions in which the court defers prosecution under IC 33-39-1-8.

(b) In each action in which prosecution is deferred, the clerk shall collect from the defendant a deferred prosecution fee of fifty dollars (\$50) for court costs.

Sec. 18. (a) In each criminal action in which a person is convicted of an offense in which the possession or use of a firearm was an element of the offense, the court shall assess a safe schools fee of at least two hundred dollars (\$200) and not more than one thousand dollars (\$1,000).

(b) In determining the amount of the safe schools fee assessed against a person under subsection (a), a court shall consider the person's ability to pay the fee.

(c) The clerk shall collect the safe schools fee set by the court

when a person is convicted of an offense in which the possession or use of a firearm was an element of the offense.

Sec. 19. (a) The clerk shall collect a jury fee of two dollars (\$2) in each action in which a defendant is found to have committed a crime, violated a statute defining an infraction, or violated an ordinance of a municipal corporation.

(b) The fee collected under this section shall be deposited into the county user fee fund established by IC 33-37-8-5.

Sec. 20. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.

(b) The clerk shall collect a document storage fee of two dollars (\$2).

Sec. 21. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.

(b) The clerk shall collect the following automated record keeping fee:

(1) Seven dollars (\$7) after June 30, 2003, and before July 1, 2009.

(2) Four dollars (\$4) after June 30, 2009.

Sec. 22. (a) Except as provided in subsection (e), this section applies to an action if all the following apply:

(1) The defendant is found, in a court that has a local court rule imposing a late payment fee under this section, to have:

(A) committed a crime;

(B) violated a statute defining an infraction;

(C) violated an ordinance of a municipal corporation; or

(D) committed a delinquent act.

(2) The defendant is required to pay:

(A) court costs, including fees;

(B) a fine; or

(C) a civil penalty.

(3) The defendant is not determined by the court imposing the court costs, fine, or civil penalty to be indigent.

(4) The defendant fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:

(A) The end of the business day on which the court enters the conviction or judgment.

(B) The end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties

under rules adopted for the operation of the court.

(b) A court may adopt a local rule to impose a late payment fee under this section on defendants described in subsection (a).

(c) Subject to subsection (d), the clerk of a court that adopts a local rule imposing a late payment fee under this section shall collect a late payment fee of twenty-five dollars (\$25) from a defendant described in subsection (a).

(d) Notwithstanding IC 33-37-2-2, a court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty.

(e) A plaintiff or defendant in an action under IC 33-34 shall pay a late fee of twenty-five dollars (\$25) if the plaintiff or defendant:

- (1) is required to pay court fees or costs under IC 33-34-8-1;
- (2) is not determined by the court imposing the court costs to be indigent; and
- (3) fails to pay the costs in full before the later of the following:

(A) The end of the business day on which the court enters the judgment.

(B) The end of the period specified in a payment schedule set for the payment of court costs under rules adopted for the operation of the court.

A court may suspend a late payment fee if the court finds that the plaintiff or defendant has demonstrated good cause for failure to make timely payment of the fee.

Sec. 23. (a) This section applies to criminal actions.

(b) The court shall assess a sexual assault victims assistance fee of at least two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000) against an individual convicted in Indiana of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).

(8) Sexual battery (IC 35-42-4-8).

(9) Sexual misconduct with a minor as a Class A or Class B felony (IC 35-42-4-9).

(10) Incest (IC 35-46-1-3).

Sec. 24. (a) This section applies to a proceeding in a drug court under IC 12-23-14.5.

(b) The clerk shall collect a drug court fee if payment of the fee is ordered by a drug court under IC 12-23-14.5-12.

Chapter 6. Credit Card Service Fee

Sec. 1. This chapter applies to any transaction in which:

(1) the clerk is required to collect money from a person, including:

(A) bail;

(B) a fine;

(C) a civil penalty;

(D) a court fee, court cost, or user fee imposed by the court; or

(E) a fee for the preparation, duplication, or transmission of a document; and

(2) the person pays the clerk by means of a credit card, debit card, charge card, or similar method.

Sec. 2. A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit. The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk *may or shall* collect a credit card service fee from the person using the bank or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

Sec. 3. (a) The clerk shall forward credit card service fees collected under section 2 of this chapter to the county auditor or the city or town fiscal officer in accordance with IC 33-37-7-12(a).

(b) Funds described in subsection (a) may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

Chapter 7. Distribution of Court Fees

Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).**
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).**
- (3) IC 33-37-4-3(a) (juvenile costs fees).**
- (4) IC 33-37-4-4(a) (civil costs fees).**
- (5) IC 33-37-4-5(a) (small claims costs fees).**
- (6) IC 33-37-4-7(a) (probate costs fees).**
- (7) IC 33-37-5-17 (deferred prosecution fees).**

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established by IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).**
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).**
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).**
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).**
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).**
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.**
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).**

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).**
- (2) Seventy-five percent (75%) of the alcohol and drug**

countermeasures fees collected under, IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the

support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) This section expires July 1, 2005.

Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS

collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(2) for deposit in the county general fund.

(i) This section applies after June 30, 2005.

Sec. 3. (a) The clerk of a circuit court shall forward the county share of fees collected to the county auditor in accordance with IC 33-37-7-12(a). The auditor shall retain as the county share twenty-seven percent (27%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-5(a) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) This section expires July 1, 2005.

Sec. 4. (a) The clerk of a circuit court shall forward the county share of fees collected to the county auditor in accordance with IC 33-37-7-12(a). The auditor shall retain as the county share twenty-seven percent (27%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) This section applies after June 30, 2005.

Sec. 5. (a) The qualified municipality share to be distributed to each city and town maintaining a law enforcement agency that prosecutes at least fifty percent (50%) of the city's or town's ordinance violations in a circuit, superior, or county court located in the county is three percent (3%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-5(a) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The county auditor shall determine the amount to be distributed to each city and town qualified under subsection (a) as follows:

STEP ONE: Determine the population of the qualified city or town.

STEP TWO: Add the populations of all qualified cities and towns determined under STEP ONE.

STEP THREE: Divide the population of each qualified city and town by the sum determined under STEP TWO.

STEP FOUR: Multiply the result determined under STEP THREE for each qualified city and town by the amount of the qualified municipality share.

(c) The county auditor shall distribute semiannually to each city and town described in subsection (a) the amount computed for that city or town under STEP FOUR of subsection (b).

(d) This section expires July 1, 2005.

Sec. 6. (a) The qualified municipality share to be distributed to each city and town maintaining a law enforcement agency that prosecutes at least fifty percent (50%) of the city's or town's ordinance violations in a circuit, superior, or county court located in the county is three percent (3%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The county auditor shall determine the amount to be distributed to each city and town qualified under subsection (a) as follows:

STEP ONE: Determine the population of the qualified city or town.

STEP TWO: Add the populations of all qualified cities and towns determined under STEP ONE.

STEP THREE: Divide the population of each qualified city and town by the sum determined under STEP TWO.

STEP FOUR: Multiply the result determined under STEP THREE for each qualified city and town by the amount of the qualified municipality share.

(c) The county auditor shall distribute semiannually to each city and town described in subsection (a) the amount computed for that city or town under STEP FOUR of subsection (b).

(d) This section applies after June 30, 2005.

Sec. 7. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-5 (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-5 (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-5 (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established by IC 33-37-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall monthly distribute to

the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) This section expires July 1, 2005.

Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under

IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) This section applies after June 30, 2005.

Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state six million seven hundred four thousand two hundred fifty-seven dollars (\$6,704,257) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to eleven and eight-hundredths percent (11.08%);

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to twenty-five and twenty-one

hundredths percent (25.21%);

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to three and fifty-two hundredths percent (3.52%);

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to fourteen and nineteen-hundredths percent (14.19%);

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to sixteen and fifty-hundredths percent (16.50%);

(6) the motor vehicle highway account an amount equal to twenty-six and ninety-five hundredths percent (26.95%);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to thirty-two hundredths of one percent (0.32%); and

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and twenty-three hundredths percent (2.23%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year the auditor of state shall transfer to the treasurer of state one million two hundred thousand dollars (\$1,200,000) for deposit into the public defense fund established by IC 33-40-6-1.

Sec. 10. (a) In a county having a judicial circuit in which either IC 31-12-1 or IC 31-12-2 applies, the county fiscal body shall annually appropriate an amount necessary to carry out the administration and the purposes of the programs established under these chapters.

(b) Requests for funding under this section must be submitted under IC 36-2-5-4 or IC 36-3-6-4.

Sec. 11. (a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

(c) From the county share distributed under section 3 or 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate twelve dollars (\$12) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established under IC 36-8-10-12.

Sec. 12. (a) Except:

(1) for the state share prescribed by section 1 or 2 of this chapter for semiannual distribution; and

(2) as provided under sections 1(g) and 2(g) of this chapter, IC 33-32-4-6, and IC 33-37-5-2;

not later than thirty (30) days after the clerk collects a fee, the clerk shall forward the fee to the county auditor if the clerk is a clerk of a circuit court, and to the city or town fiscal officer if the clerk is the clerk of a city or town court.

(b) If part of the fee is collected on behalf of another person for service as a juror or witness, the county auditor or city or town fiscal officer shall forward that part of the fee to the person not later than forty-five (45) days after the auditor or fiscal officer receives the claim for the fee.

(c) Except for amounts deposited in a user fee fund established under IC 33-37-8, the county auditor shall distribute fees received from the clerk to the following:

(1) The county treasurer for deposit in the county general fund, if the fee belongs to the county.

(2) The fiscal officer of a city or town, if the fee belongs to the city or town under section 5 or 6 of this chapter.

(d) Except for amounts deposited in a user fee fund established under IC 33-37-8, the city or town fiscal officer shall deposit all fees received from a clerk in the city's or town's treasury.

(e) The clerk shall forward the state share of each fee to the state treasury at the clerk's semiannual settlement for state revenue.

Chapter 8. Local User Fee Funds

Sec. 1. As used in this chapter, "city or town fund" refers to the city or town user fee fund established under section 3 of this chapter.

Sec. 2. As used in this chapter, "county fund" refers to the county user fee fund established under section 5 of this chapter.

Sec. 3. (a) A city or town user fee fund is established in each city or town having a city or town court for the purpose of supplementing the cost of various program services. The city or town fund is administered by the fiscal officer of the city or town.

(b) The city or town fund consists of the following fees collected by a clerk under this article:

- (1)** The pretrial diversion program fee.
- (2)** The alcohol and drug services fee.
- (3)** The law enforcement continuing education program fee.
- (4)** The deferral program fee.
- (5)** The drug court fee.

Sec. 4. Upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 3(b) of this chapter, the fiscal body of the city or town shall appropriate from the city or town fund to the program the amount collected for the program fee under IC 33-37-5.

Sec. 5. (a) A county user fee fund is established in each county to finance various program services. The county fund is administered by the county auditor.

(b) The county fund consists of the following fees collected by a clerk under this article and by the probation department for the juvenile court under IC 31-34-8-8 or IC 31-37-9-9:

- (1)** The pretrial diversion program fee.
- (2)** The informal adjustment program fee.
- (3)** The marijuana eradication program fee.
- (4)** The alcohol and drug services program fee.
- (5)** The law enforcement continuing education program fee.
- (6)** The deferral program fee.
- (7)** The jury fee.
- (8)** The drug court fee.

(c) All of the jury fee and two dollars (\$2) of a deferral program fee collected under IC 33-37-4-2(e) shall be deposited by the county auditor in the jury pay fund established under IC 33-37-11.

Sec. 6. Upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 5(b) of this chapter, the county fiscal body shall appropriate from the county fund to the program or fund the amount collected for the program under IC 33-37-5.

Sec. 7. (a) This section applies when a county auditor has

established a pretrial diversion program fund to receive funds initially deposited in the county fund from the collection of the pretrial diversion program fee. Whenever a prosecuting attorney:

(1) certifies to the county fiscal body that the amount in the pretrial diversion program fund exceeds the amount needed to finance the pretrial diversion program services during the calendar year; and

(2) states the amount of the excess funds in the certification; the fiscal body may adopt an ordinance to appropriate the excess funds from the pretrial diversion program fund to the office of the prosecuting attorney.

(b) Funds appropriated as described in subsection (a) may be used by the office of the prosecuting attorney for any purpose specified in the appropriation ordinance adopted by the fiscal body.

(c) A county fiscal body may not transfer funds previously appropriated to the office of the prosecuting attorney as a result of an appropriation described in subsection (a).

Sec. 8. (a) This section applies to jury fees collected under IC 33-37-5-19.

(b) If a clerk certifies to a county fiscal body the amount of fees collected, the county fiscal body shall direct the county auditor to transfer the amount certified to the jury pay fund established under IC 33-37-11.

Chapter 9. State User Fee Funds

Sec. 1. As used in this chapter, "state fund" refers to the state user fee fund established by section 2 of this chapter.

Sec. 2. The state user fee fund is established. The state fund is administered by the treasurer of state.

Sec. 3. On June 30 and December 31 each year, the auditor of state shall transfer to the treasurer of state for deposit in the state fund the fees distributed to the auditor of state under IC 33-37-7-1(b), IC 33-37-7-2(b), IC 33-37-7-7(d), and IC 33-37-7-8(d).

Sec. 4. (a) The treasurer of state shall distribute semiannually one million two hundred eighty-eight thousand dollars (\$1,288,000) of the amounts transferred to the state fund under section 3 of this chapter as follows:

(1) Fourteen and ninety-eight hundredths percent (14.98%)

shall be deposited into the alcohol and drug countermeasures fund established by IC 9-27-2-11.

(2) Eight and forty-two hundredths percent (8.42%) shall be deposited into the drug interdiction fund established by IC 10-11-7-1.

(3) Four and sixty-eight hundredths percent (4.68%) shall be deposited into the drug prosecution fund established by IC 33-39-8-6.

(4) Five and sixty-two hundredths percent (5.62%) shall be deposited into the corrections drug abuse fund established by IC 11-8-2-11.

(5) Twenty-two and forty-seven hundredths percent (22.47%) shall be deposited into the state drug free communities fund established by IC 5-2-10-2.

(6) Seven and ninety-eight hundredths percent (7.98%) shall be distributed to the Indiana department of transportation for use under IC 8-23-2-15.

(7) Twenty and thirty-two hundredths percent (20.32%) shall be deposited in the family violence and victim assistance fund established by IC 12-18-5-2.

(8) Fifteen and fifty-three hundredths percent (15.53%) shall be deposited in the Indiana safe schools fund established by IC 5-2-10-1.

(b) The treasurer of state shall distribute semiannually the amount remaining after the distributions are made under subsection (a) to the judicial technology and automation project fund established by IC 33-24-6-12.

Chapter 10. Juror and Witness Fees

Sec. 1. (a) A juror of a circuit, superior, county, or probate court or a member of a grand jury is entitled to the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers and employees for each mile necessarily traveled to and from the court.

(2) Payment at the rate of:

(A) fifteen dollars (\$15) for each day the juror is in actual attendance in court until the jury is impaneled; and

(B) forty dollars (\$40) for each day the juror is in actual attendance after impaneling and until the jury is

discharged.

(b) A county fiscal body may adopt an ordinance to pay from county funds a supplemental fee in addition to the fees prescribed by subsection (a)(2).

(c) A juror of a city or town court is entitled to the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers and employees for each mile necessarily traveled to and from the court.

(2) Fifteen dollars (\$15) per day while the juror is in actual attendance.

(d) A city or town fiscal body may adopt an ordinance to pay from city or town funds a supplemental fee in addition to the fee prescribed by subsection (c)(2).

(e) For purposes of this section, a prospective juror who is summoned for jury duty and who reports to the summoning court on the day specified in the summons is in actual attendance on that day.

Sec. 2. (a) A witness in a criminal action may receive a fee if the witness:

(1) is summoned by the state;

(2) is named on the indictment or information; and

(3) testifies under oath to a material fact in aid of the prosecution.

(b) A fee paid under subsection (a) is the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.

(2) For each day of attendance in court equal to:

(A) fifteen dollars (\$15) for witnesses subpoenaed under IC 35-37-5-4; or

(B) five dollars (\$5) for all other witnesses.

Sec. 3. A witness in an action listed in IC 33-37-4-2, IC 33-37-4-3, IC 33-37-4-4, IC 33-37-4-5, IC 33-37-4-6, and IC 33-37-4-7 is entitled to the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.

(2) Five dollars (\$5) for each day of attendance in court.

Sec. 4. (a) The clerk shall note witness and juror fees when the fees are claimed and forward the claims to the county auditor or city or town fiscal officer.

(b) The clerk is not entitled to a fee for providing an affidavit or other proof of attendance to a juror or witness.

(c) The county auditor or city or town fiscal officer shall disburse juror or witness fees claimed under this section as provided in IC 33-37-7-12.

Chapter 11. Jury Pay Fund

Sec. 1. As used in this chapter, "jury pay fund" refers to the jury pay fund established under section 2 of this chapter.

Sec. 2. (a) A jury pay fund is established for each county to supplement the cost of paying jury fees. The jury pay fund is administered by the county auditor.

(b) The jury pay fund consists of amounts deposited by the county auditor under IC 33-37-8-5(c) and the fees collected under IC 33-37-5-19 from defendants who:

- (1)** committed a crime;
- (2)** violated a statute defining an infraction; or
- (3)** violated an ordinance of a municipal corporation.

Sec. 3. Upon receipt of monthly claims submitted on oath to the county fiscal body by a clerk serving the county, the county fiscal body shall appropriate from the jury pay fund to the court served by the clerk an amount to supplement the cost of jury fees.

SECTION 17. IC 33-38 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 38. JUDGES

Chapter 1. Certain Judgeship's Eligibility; Term of Office; Travel Expenses

Sec. 1. A person is not eligible to hold the office of judge of any probate or superior court unless, in addition to other prerequisites to eligibility provided by Indiana law, the person is admitted to the practice of law in Indiana.

Sec. 2. Each judge of each:

- (1)** judicial circuit containing more than one (1) county;
- (2)** county court serving more than one (1) county; and
- (3)** superior court district containing more than one (1) county;

shall be paid two thousand dollars (\$2,000) per year to reimburse the judge for traveling and other necessary expenses. Two thousand dollars (\$2,000) for each judge is appropriated annually from the state general fund not otherwise appropriated.

Sec. 3. The term of office of a person:

- (1) elected judge of the court of appeals or of any circuit, superior, probate, criminal, or juvenile court begins on the first day of January after the person's election; and
- (2) elected or appointed to any judgeship expires on December 31 after the election of the respective successors.

Chapter 2. Appointment of Bailiffs in Certain Counties

Sec. 1. The judge of the circuit, superior, criminal, probate, and juvenile courts in each county having a population of at least thirty-five thousand (35,000) shall appoint a bailiff and may appoint a riding bailiff for the judge's court, whose per diem shall be fixed by the court to be paid from the county treasury.

Sec. 2. In counties having a population of less than thirty-five thousand (35,000), the judge of the circuit court may appoint a bailiff. However, if a bailiff is not appointed, the sheriff of the county shall perform the duties of the bailiff.

Chapter 3. Copy of Appointment of a City or Municipal Judge to the Clerk of Circuit Court

Sec. 1. When a person is appointed as judge of a city or municipal court, a certified copy of the appointment shall be sent by the appointing authority to the clerk of the circuit court of the county in which the city is located.

Sec. 2. The appointment described in section 1 of this chapter shall be recorded in the order book of the circuit court, and the record authorizes the clerk to certify that the judge is the:

- (1) appointed;
- (2) qualified; and
- (3) acting;

judge of the city or municipal court for which the judge was appointed.

Chapter 4. Chief Clerk in Marion and Lake Counties

Sec. 1. The judge of the circuit court in a county having a population of at least four hundred thousand (400,000) may appoint a chief clerk for the court.

Sec. 2. The salary for the chief clerk:

- (1) shall be fixed by the judge of the court;
- (2) may not be more than four thousand eight hundred dollars (\$4,800) per year; and
- (3) shall be paid in monthly installments from the county treasury of the county in which the court is located.

Sec. 3. The chief clerk may administer oaths that are convenient or necessary to be administered in the discharge of the clerk's duties, for which there is no charge or expense incurred.

Sec. 4. The chief clerk must be:

- (1) a graduate of an approved law school; and
- (2) admitted to the practice of law in Indiana.

Sec. 5. The county council of the county shall appropriate the money requested by the presiding judge of the circuit court for payment of the salary of the chief clerk, not exceeding the maximum amount of salary provided for by this section.

Chapter 5. Salaries

Sec. 1. There is appropriated from the state general fund a sufficient amount to pay the state general fund contributions under this chapter.

Sec. 2. The county councils of the counties of the state shall appropriate annually a sufficient amount to pay the county salaries under this chapter.

Sec. 3. (a) This section applies to a judicial circuit that is composed of more than one (1) county.

(b) The counties comprising a circuit to which this section applies are considered one (1) county for purposes of this chapter. Each county in the circuit shall pay part of the county salary in the same proportion as the county's individual classification factor bears to the classification factor of the judicial circuit.

Sec. 4. For purposes of this chapter, each county is:

- (1) graded on the basis of population and gross assessed valuation; and
- (2) set up on the percentage ratio it bears to the state, the whole state being considered as one hundred percent (100%).

Sec. 5. (a) The nine (9) classes of the several counties of the state as set out in this chapter are based on a unit factor system. The factors are determined by the relation of the county to the state as established and certified to each county auditor by the state board of accounts not later than July 1 of each year. They are as follows:

(1) Population.

(2) Gross assessed valuation as shown by the last preceding gross assessed valuation as certified by the various counties to the auditor of the state in the calendar year in which the calculation is made.

(b) The factors for each of the nine (9) classes set out in this chapter shall be obtained as follows:

(1) The population of each county shall be divided by the population of the entire state.

(2) The gross assessed valuation of each county shall be divided by the gross assessed valuation of the entire state.

(3) The results obtained under subdivision (1) and (2) shall be added together and the sum obtained for each county shall be divided by two (2).

(4) The result obtained under subdivision (3), multiplied by one hundred (100), determines the classification of each county according to the following schedule:

Classification Factors

	High	Low	Class
No limit		8.00	1
All under	8.00	2.25	2
All under	2.25	1.25	3
All under	1.25	.85	4
All under	.85	.70	5
All under	.70	.60	6
All under	.60	.50	7
All under	.50	.35	8
All under	.35	no limit	9

Sec. 6. (a) The total annual salary of each full-time judge of a circuit, superior, municipal, county, or probate court is:

(1) ninety thousand dollars (\$90,000), paid by the state; and

(2) any additional salary provided by the county under IC 36-2-5-14 or IC 36-3-6-3(c).

The state shall deposit quarterly the money received from the counties under subsection (c) for additional salary in the state general fund.

(b) Before November 2 of each year, the county auditor of each county shall certify to the division of state court administration the amounts, if any, to be provided by the county during the ensuing

calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

(c) When making each payment under subsection (a), the county shall determine for each judge whether the total of:

- (1) the payment made on behalf of that judge;
- (2) previous payments made on behalf of that judge in the same calendar year; and

(3) the state share of the judge's salary under subsection (a); exceeds the Social Security wage base established by the federal government for that year. If the total does not exceed the Social Security wage base, the payment on behalf of that judge must also be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes. If the total exceeds the Social Security wage base, the part of the payment on behalf of the judge that is below the Social Security wage base must be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes, and the part of the payment on behalf of the judge that exceeds the Social Security wage base must be accompanied by an amount equal to the employer's share of Medicare taxes. Payments made under this subsection shall be deposited in the state general fund under subsection (a).

(d) For purposes of determining the amount of life insurance premiums to be paid by a judge who participates in a life insurance program that:

- (1) is established by the state;
- (2) applies to a judge who is covered by this section; and
- (3) bases the amount of premiums to be paid by the judge on the amount of the judge's salary;

the judge's salary does not include any amounts paid to the state by a county under subsection (a).

Sec. 7. Of the annual salary of a juvenile court magistrate, the county served by the magistrate shall pay forty-one thousand three hundred ninety-three dollars (\$41,393). The balance of the annual salary shall be paid by the state from the state general fund.

Sec. 8. (a) The total annual salary for each justice of the supreme court is one hundred fifteen thousand dollars (\$115,000).

(b) The total annual salary for each judge of the court of appeals is one hundred ten thousand dollars (\$110,000).

(c) The state shall pay the annual salaries prescribed in

subsections (a) through (b) from the state general fund.

(d) In addition to salary, the state shall pay to a justice or judge, in equal monthly payments on the first day of each month from money in the state general fund not otherwise appropriated, the following annual subsistence allowances to assist in defraying expenses relating to or resulting from the discharge of the justice's or judge's official duties:

(1) Five thousand five hundred dollars (\$5,500) to the chief justice of the supreme court.

(2) Five thousand five hundred dollars (\$5,500) to the chief judge of the court of appeals.

(3) Three thousand dollars (\$3,000) to each justice of the supreme court who is not the chief justice.

(4) Three thousand dollars (\$3,000) to each judge of the court of appeals who is not the chief judge.

A justice or judge is not required to make an accounting for an allowance received under this subsection.

(e) The state may not furnish automobiles for the use of justices or judges compensated under this section.

Sec. 9. (a) A judge described in section 6 of this chapter, the justices of the supreme court, and the judges of the court of appeals shall:

(1) formulate;

(2) post in a prominent place; and

(3) make available to the public;

a schedule of the working hours during which the court will be open and during which each judge or justice will be present.

(b) A judge or justice shall hold the court open and be available in the court during:

(1) regular business hours; or

(2) the hours specified on the schedule, if the business of the court requires evening or weekend sessions.

(c) A judge or justice may be absent from the court due to official business, matters relating to the judge's or justice's judicial office, illness, serious personal matters, or regular vacation.

Sec. 10. The classification of salary schedules for judges may not be lowered below the classification first fixed by the state board of accounts under this chapter.

Chapter 6. Judge's Retirement System

Sec. 1. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the act.

Sec. 2. As used in this chapter, "board" refers to the board of trustees of the public employees' retirement fund.

Sec. 3. As used in this chapter, "employer" means the state of Indiana.

Sec. 4. As used in this chapter, "fiscal year" means the period beginning July 1, in any year, and ending June 30 of the succeeding year.

Sec. 5. As used in this chapter, "fund" refers to the Indiana judges' retirement fund established by section 12 of this chapter.

Sec. 6. As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

Sec. 7. As used in this chapter, "judge" means a person who serves or has served as a regular judge or justice of one (1) or more of the following courts:

(1) Supreme court.

(2) Court of appeals.

(3) Indiana tax court.

(4) Circuit court of a judicial circuit.

(5) Superior court of a county.

(6) Criminal court of a county having a separate criminal court.

(7) Probate court of a county having a separate probate court.

(8) Juvenile court of a county having a separate juvenile court.

(9) Municipal court of a county.

(10) County court of a county.

Sec. 8. As used in this chapter, "judge pro tempore service" means service in Indiana as a full-time judge pro tempore appointed under Trial Rule 63(B) that:

(1) is not covered by IC 33-38-7 or IC 33-38-8; and

(2) is served by a person who has other service that is covered by IC 33-38-7 or IC 33-38-8.

Sec. 9. As used in this chapter, "participant" means a judge who participates in the fund.

Sec. 10. As used in this chapter, "salary" means the total salary paid to a participant by the state and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

Sec. 11. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge, whether the date is before, on, or after March 11, 1953, and ending on the date under consideration and includes all intervening employment as a judge.

Sec. 12. The Indiana judges' retirement fund is established and consists of:

- (1) each participant's contribution to the fund;
- (2) gifts, grants, devises, and bequests in money, property, or other forms made to the fund;
- (3) interest on investments or on deposits of the funds; and
- (4) contributions or payments to the fund made in the manner provided by the general assembly, including appropriations from the state general fund as provided by this chapter.

Sec. 13. The fund must satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the fund. In order to meet those requirements, the fund is subject to the following provisions, notwithstanding any other provision of this chapter IC 33-38-7, or IC 33-38-8:

- (1) The board shall distribute the corpus and income of the fund to participants and their beneficiaries in accordance with this chapter, IC 33-38-7, and IC 33-38-8.
- (2) A part of the corpus or income of the fund may not be used or diverted to a purpose other than the exclusive benefit of the participants and their beneficiaries.
- (3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits a participant would otherwise receive under the fund.
- (4) If the fund is terminated or if all contributions to the fund are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the fund is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin not later than December 31 of the calendar year immediately following the calendar year in which the participant died.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participants or beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) The salary taken into account under this chapter, IC 33-38-7, or IC 33-38-8 may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

Sec. 14. The board shall administer the fund in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the act.

Sec. 15. (a) Conditions for participation in the fund, contributions to the fund, withdrawal from the fund, and eligibility for and computation of benefits for participants and their survivors are governed by IC 33-38-7 and IC 33-38-8.

(b) Notwithstanding any provision of this chapter, IC 33-38-7, or IC 33-38-8, the fund must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A participant on a leave of absence that qualifies for the benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and

eligibility purposes to the extent required by the Family and Medical Leave Act but is not entitled to receive credit for service for benefit purposes.

(c) Notwithstanding any provision of this chapter, IC 33-38-7, and IC 33-38-8, a participant is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

Sec. 16. (a) The governor may conduct, or cause to be conducted, a referendum for the judges who are covered by the provisions of the judges' retirement fund to determine whether the judges covered by the retirement fund shall be excluded from or included in the agreement negotiated under the provisions of Section 218 of the federal Social Security Act (as defined in IC 5-10.1-1-9). The referendum must be conducted in full compliance with all the requirements of Section 218(d) of the federal Social Security Act. The governor shall designate the board as the agency to conduct and supervise the referendum, and the expense of conducting the referendum shall be paid from funds appropriated to the fund.

(b) If the majority of the judges who are eligible to vote in the referendum described in subsection (a) vote in the negative, the board may request that a subsequent referendum be conducted in the same manner and with the same effect described in subsection (a). However, a subsequent referendum may not be conducted within one (1) year after the date of the prior referendum.

(c) If a majority of the judges who are eligible to vote in the referendum described in subsection (a) vote in the affirmative, both the:

(1) judges covered by the retirement fund; and

(2) judges who waived their right to be covered by the provisions of the retirement fund;

shall be included in the agreement negotiated by the state with the Secretary of the United States Department of Health and Human Services in the same manner provided in IC 5-10.1-4 for the inclusion of services covered by the retirement systems specified in IC 5-10.1-4-1 in the agreement.

(d) Each judge whose services are covered by Social Security is required to pay during the period of the judge's service the

employee contributions required by the agreement. The contributions shall begin on the effective date of the judge's coverage and are subject to the terms and conditions of IC 5-10.1.

(e) The auditor of state shall pay the employer contributions required under the agreement wholly from funds appropriated to the fund, and the contributions begin on the effective date of the modification that adds the judges of the fund to the federal-state agreement. The employer contributions shall be paid in the manner provided in the agreement.

(f) The modification of the federal-state agreement to effectuate the participation of the judges in the agreement must be effective for services performed on a date fixed and determined by the board.

Sec. 17. (a) For purposes of this chapter, there is appropriated for each biennium a sum of money, computed on an actuarially funded basis, as follows:

(1) From the state general fund for participants' retirement benefits, the amount determined by the board, on recommendation of an actuary, which, when added to the part of the fund held for benefits at the date of the appropriation, is equal to the total liability of the fund for benefits to the end of the biennium.

(2) From the earnings on the fund, for administration purposes, the amount required during the biennium, as determined by the board on the basis of experience. The amount required for administration shall be paid out as the operating expenses of other state departments are paid.

(b) The biennial appropriation provided in this section shall be credited to the board annually in equal installments in July of each year of the biennium.

Sec. 18. The amount appropriated under section 17 of this chapter for participants' retirement benefits shall be used for retirement benefits under IC 33-38-7 and IC 33-38-8.

Sec. 19. The fund shall be construed to be a trust, separate and distinct from all other entities, maintained to secure payment of benefits to the participants and their beneficiaries, as prescribed in IC 33-38-7 and IC 33-38-8.

Sec. 20. In addition to the purpose set forth in section 19 of this chapter, the fund may be used for the payment of the costs of

administering this chapter.

Sec. 21. (a) When drawing a salary warrant for a participant, the auditor of state and the county auditor shall deduct from the amount of the warrant the participant's contribution, if any, to the fund in the amount certified in the vouchers or an order issued by the director.

(b) The auditor of state and the county auditor shall draw a warrant to the fund for the total contributions withheld from the participants each month. The warrant drawn to the fund together with a list of participants and the amount withheld from each participant shall be transmitted immediately to the director.

(c) The auditor of state shall draw warrants upon the treasurer of state, payable from the fund, for purposes provided for in this chapter, upon the presentation of vouchers or an order signed by the director of the board in accordance with resolutions of the board.

Sec. 22. The auditor of state and the county auditor in the preparation of salary warrants to participants shall indicate on the payroll voucher the following information, in addition to other things:

(1) The amount of the participant's contribution to the fund deducted from the salary of the participant.

(2) The net amount payable to the participant, after the deduction of the participant's contribution.

Sec. 23. (a) The board of trustees of the public employees' retirement fund shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall:

(1) determine eligibility for and make payments of benefits under IC 33-38-7 and IC 33-38-8;

(2) in accordance with the powers and duties granted it in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund; and

(3) provide by rule for the implementation of this chapter and IC 33-38-7 and IC 33-38-8.

(c) A determination by the board may be appealed under the procedures in IC 4-21.5.

(d) The powers and duties of the director and the actuary of the

board, the treasurer of state, the attorney general, and the auditor of state, with respect to the fund, are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

Sec. 24. Notwithstanding any other provision of this chapter, IC 33-38-7, or IC 33-38-8, to the extent required by Internal Revenue Code Section 401(a)(31) of the Internal Revenue Code, as added by the Unemployment Compensation Amendments of 1992 (P.L. 102-318), and any amendments and regulations related to Section 401(a)(31) of the Internal Revenue Code, the fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

Sec. 25. (a) A judge is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

- (1) at any time when the judge is not serving as judge; or
- (2) during any period of service as a senior judge under IC 33-23-3.

Sec. 26. (a) A participant may purchase judge pro tempore service credit if:

- (1) the participant has at least one (1) year of service in the fund;
- (2) before the participant retires, the participant makes contributions to the fund:

(A) that are equal to the product of:

- (i) the participant's salary at the time the participant actually makes a contribution for the service credit; multiplied by
- (ii) a percentage rate, as determined by the actuary of

the fund, that is based on the age of the participant at the time the participant makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; multiplied by

(iii) the number of years of judge pro tempore service the participant intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the participant's initial membership in the fund to the date payment is made by the participant; and

(3) the fund receives verification from the applicable court that the judge pro tempore service occurred.

(b) A participant may not receive service credit under this section if the judge pro tempore service for which the participant requests credit also qualifies the participant for a benefit in another retirement system.

(c) A participant who:

(1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit from the fund; or

(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the participant's contributions made under this section plus accumulated interest after submitting to the fund a properly completed application for a refund.

(d) The following apply to the purchase of service credit under this section:

(1) The board may allow a participant to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments are to be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations set forth in Section 415 of the Internal Revenue Code.

(3) A participant may not claim the service credit for purposes of determining eligibility or computing benefits unless the participant has made all payments required for the

purchase of the service credit.

(e) To the extent permitted by the Internal Revenue Code and applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a rollover of a distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.**
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.**
- (3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.**
- (4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.**

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.**
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.**

Sec. 27. A reference to the judges' retirement system under this chapter is considered a reference to the judges' retirement fund under this article.

Chapter 7. 1977 Retirement, Disability, and Death System

Sec. 1. This chapter applies only to an individual who begins service as a judge before September 1, 1985.

Sec. 2. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

Sec. 3. As used in this chapter, "board" refers to the board of trustees of the public employees' retirement fund.

Sec. 4. As used in this chapter, "employer" means the state of Indiana.

Sec. 5. As used in this chapter, "fund" refers to the Indiana judges' retirement fund established by IC 33-38-6-12.

Sec. 6. As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent consistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

Sec. 7. As used in this chapter, "participant" means a judge who participates in the fund.

Sec. 8. As used in this chapter, "salary" means the total salary paid to a participant by the state and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

Sec. 9. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge, whether the date is before, on, or after March 11, 1953, and ending on the date under consideration and includes all intervening employment as a judge.

Sec. 10. (a) A person who completed at least eight (8) years of service as a judge before July 1, 1953, may become a participant in the fund and be subject to this chapter if the person qualifies for benefits under section 11 of this chapter. A person who is a judge on July 1, 1953, shall become a participant in the fund and be subject to this chapter, beginning on July 1, 1953, unless twenty (20) days before July 1, 1953, the judge files with the board a written notice of election not to participate in the fund.

(b) A person who:

(1) becomes a judge after July 1, 1953, and before September 1, 1985; and

(2) is not a participant in the fund;

becomes a participant in the fund and is subject to this chapter, beginning on the date the person becomes a judge, unless within twenty (20) days after that date the judge files with the board a written notice of election not to participate in the fund. An election filed under this subsection is irrevocable.

(c) A person who irrevocably:

(1) elects not to participate in the fund; or

(2) withdraws from the fund under section 13 of this chapter; is ineligible to participate and to receive benefits under this chapter.

(d) Participation of a judge in the fund continues until the date on which the judge:

- (1) becomes an annuitant;**
- (2) dies; or**
- (3) accepts a refund;**

but a person is not required to pay into the fund during any period that the person is not serving as a judge, except as otherwise provided in this chapter.

(e) A participant is considered to have made a one (1) time irrevocable salary reduction agreement of six percent (6%) of each payment of salary that a participant would otherwise have received for services as a judge.

(f) The auditor of state and the county auditor shall pay and credit to the fund the amounts described in subsection (e) as provided in IC 33-38-6-21 and IC 33-38-6-22. However, no amounts shall be paid on behalf of a participant for more than twenty-two (22) years.

Sec. 11. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) A participant whose employment as judge is terminated, regardless of cause, is entitled to a retirement annuity beginning on the date specified by the participant in a written application, if the following conditions are met:

- (1) The date the annuity begins is not:**
 - (A) before the date of final termination of employment by the participant; or**
 - (B) the date thirty (30) days before the receipt of the participant's written application by the board.**
- (2) The participant:**
 - (A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;**
 - (B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or**
 - (C) has become permanently disabled.**

- (3) The participant is not receiving a salary from the state for services currently performed, except for services rendered in the capacity of judge pro tempore or senior judge.**

(c) A participant:

(1) who:**(A) elects to accept retirement after June 30, 1977; and****(B) is at least sixty-five (65) years of age; or****(2) who:****(A) elects to accept retirement after June 30, 1999;****(B) is at least fifty-five (55) years of age; and****(C) meets the requirements under subsection (b)(2)(B);****is entitled to an annual retirement benefit as calculated in subsection (d).****(d) The annual retirement benefit for a participant who meets the requirements of subsection (c) equals the product of:****(1) the salary being paid for the office that the participant held at the time of the participant's separation from service; multiplied by****(2) the percentage prescribed in the following table:****TABLE A**

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service. A participant who elects to accept retirement before July 1, 1977, is entitled to an annual retirement benefit that equals the average of

the benefit computed under this subsection and the benefit the participant would have received under IC 33-38-6 as in effect on June 30, 1977.

(e) If the annual retirement benefit of a participant who began service as a judge before July 1, 1977, as computed under subsection (d), is less than the amount the participant would have received under IC 33-38-6 as in effect on June 30, 1977, the participant is entitled to receive the greater amount as the participant's annual retirement benefit instead of the benefit computed under subsection (d).

(f) Except as provided in subsections (b)(2)(B) and (d), if a participant who elects to accept retirement after June 30, 1977, has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

- (1) participants who are separated from service because of permanent disability;
- (2) survivors of participants who die while in service after August 1, 1992; or
- (3) survivors of participants who die while not in service but while entitled to a future benefit.

(g) A participant who is permanently disabled is entitled to an annual benefit equal to the product of:

- (1) the salary being paid for the office that the participant held at the time of separation from service; multiplied by
- (2) the percentage prescribed in the following table:

TABLE B

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%

19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(h) The surviving spouse or surviving child or children, as designated by the participant, of a participant who has qualified before July 1, 1977, to receive the retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, shall, upon the death of such participant, be entitled to an annuity in an amount equal to the greater of:

- (1) the sum of:
 - (A) two thousand dollars (\$2,000); plus
 - (B) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of the participant's death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits prior to the participant's death; or
- (2) the amount determined under the following table:

TABLE C

Year	Amount
July 1, 1995, to June 30, 1996	\$10,000
July 1, 1996, to June 30, 1997	\$11,000
July 1, 1997, and thereafter	\$12,000

(i) If a participant who qualifies after June 30, 1977, and before July 1, 1983, to receive a retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, dies, the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled to an annuity in an amount equal to the greater of:

- (1) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that

which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits before death; or

(2) the amount determined under TABLE C in subsection (h)(2).

(j) If a participant:

(1) dies after June 30, 1983; and

(2) on the date of the participant's death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge;

(C) was permanently disabled; or

(D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit;

the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled, regardless of the participant's age, to an annuity in an amount equal to the greater of the amount determined under TABLE C in subsection (h)(2) or fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits on the participant's date of death, with reductions as necessary under subsection (f).

(k) Notwithstanding subsection (j), if a participant:

(1) died after June 30, 1983, and before July 1, 1985; and

(2) was serving as a judge at the time of death;

the surviving spouse is entitled to the same retirement annuity as the surviving spouse of a permanently disabled participant entitled to benefits under subsection (i).

(l) The annuity payable to a surviving child or children under subsection (h), (i), or (j), is subject to the following:

(1) The total monthly benefit payable to a surviving child or children is equal to the same monthly annuity that was to have been payable to the surviving spouse.

(2) If there is more than one (1) child designated by the participant, then the children are entitled to share the annuity in equal monthly amounts.

(3) Each child entitled to an annuity shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(4) Upon the cessation of payments to one (1) designated child, if there is at least one (1) other child then surviving and still entitled to payments, the remaining child or children shall share equally the annuity. If the surviving spouse of the participant is surviving upon the cessation of payments to all designated children, the surviving spouse will then receive the annuity for the remainder of the surviving spouse's life.

(5) The annuity shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child named as a beneficiary by a participant survives the participant.

(B) No children designated by the participant are entitled to an annuity due to their age at the time of death of the participant.

(C) A designation is not made.

(6) An annuity payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

Sec. 12. (a) Benefits provided under this section are subject to IC 33-38-6-13.

(b) A participant is considered permanently disabled if the board has received a written certificate by at least two (2) licensed and practicing physicians, appointed by the board, indicating that:

- (1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and
- (2) the condition is likely to be permanent.

(c) The participant shall be reexamined by at least two (2) physicians appointed by the board at the times as the board designates but at intervals not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, then benefits cease to be payable as of the date of the examination unless, on that date, the participant is:

- (1) at least sixty-five (65) years of age; or
- (2) at least fifty-five (55) years of age and meets the

requirements under section 11(b)(2)(B) of this chapter.

(d) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated by the initial and periodic examinations and reviews to determine eligibility for disability benefits under this section shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

Sec. 13. (a) Except as otherwise provided in this chapter, a participant:

- (1) whose employment as a judge is terminated regardless of cause; and
- (2) who has less than twelve (12) years service;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. However, the date on which the withdrawal begins may not be before the date of final termination of employment of the participant, or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, a participant is entitled to receive out of the fund an amount equal to the total sum contributed to the fund on behalf of the participant, payable within sixty (60) days after date of the withdrawal application or in monthly installments as the participant may elect.

Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) If annuities are not payable to the survivors of a participant who dies after July 1, 1983, the surviving spouse or child or children of the participant, if any, as determined by the participant, and if none survive, then any dependent or dependents surviving shall draw from the fund the amount that the participant paid into the fund plus interest as determined by the board. If no spouse, child or children, or other dependents survive, then the amount plus interest minus any payments made to the participant shall be paid to the executor or administrator of the participant's estate.

(c) The amount owed a spouse, child or children, or other dependent, or estate under this section is payable within sixty (60) days after date of the withdrawal application or in the monthly installments as the recipient may elect.

Sec. 15. (a) Benefits provided under this section are subject to

IC 33-38-6-13 and section 16 of this chapter.

(b) If a participant's spouse does not survive the participant, and a child is not designated and entitled to receive an annuity under section 11 of this chapter, any surviving dependent child of a participant is, upon the death of the participant, entitled to an annuity in an amount equal to the annuity the participant's spouse would have received under section 11 of this chapter.

(c) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, then that dependent child is entitled to receive an annuity in an amount equal to the annuity the spouse was receiving or would have received under section 11 of this chapter.

(d) If there is more than one (1) dependent child, the dependent children are entitled to share the annuity equally.

(e) Each dependent child is entitled to receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

Sec. 16. Notwithstanding any other provision of this chapter, and solely for the purposes of the benefits provided under this chapter, the benefit limitations of Section 415 of the Internal Revenue Code shall be determined by applying the provisions of Section 415(b)(10) of the Internal Revenue Code, as amended by the Technical and Miscellaneous Revenue Act of 1988 (P.L.100-647). This section constitutes an election under Section 415(b)(10)(C) of the Internal Revenue Code to have Section 415(b) of the Internal Revenue Code (other than Section 415(b)(2)(G)) applied without regard to Section 415(b)(2)(F) to anyone who did not first become a participant before January 1, 1990.

Sec. 17. (a) A judge is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the

periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

- (1) at any time when the judge is not serving as judge; or
- (2) during any period of service as a senior judge under IC 33-23-3.

Sec. 18. (a) This section applies to a person who:

- (1) is a judge participating under this chapter;
- (2) before becoming a judge was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate;
- (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and
- (4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant in the judges' 1977 benefit system under section 1 of this chapter, credit for prior service by the judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

- (1) the prior service was credited under the public employees' retirement fund;
- (2) the state contributes to the judges' 1977 benefit system the amount the board determines necessary to amortize the prior service liability over a period determined by the board, but not more than ten (10) years; and
- (3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1977 benefit system during the prior service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1977 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1977 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for prior service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the prior service under the judges' 1977 benefit system may be granted only under subsection (b).

(5) Credit for prior service in the public employees' retirement fund for service other than as a full-time referee, full-time commissioner, or full-time magistrate remains under the public employees' retirement fund and may not be credited under the judges' 1977 benefit system.

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Sec. 19. (a) This section applies only to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was a member of an Indiana public employees' retirement fund;

(3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 18 of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1977 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under an Indiana public employees' retirement fund; and

(2) the judge pays in a lump sum or in a series of payments

determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1977 benefit system as the total actual cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1977 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive

service credit under subsection (b), a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Chapter 8. 1985 Retirement, Disability, and Death System

Sec. 1. This chapter applies only to an individual who begins service as a judge after August 31, 1985.

Sec. 2. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the act.

Sec. 3. As used in this chapter, "board" refers to the board of trustees of the public employees' retirement fund.

Sec. 4. As used in this chapter, "employer" means the state of Indiana.

Sec. 5. As used in this chapter, "fund" refers to the Indiana judges' retirement fund established by IC 33-38-6-12.

Sec. 6. (a) As used in this chapter, "Internal Revenue Code":

- (1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or
- (2) to the extent consistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

Sec. 7. As used in this chapter, "participant" means a judge who participates in the fund.

Sec. 8. As used in this chapter, "salary" means the total salary paid to a participant by the state and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

Sec. 9. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge, whether the date is before, on, or after March 11, 1953, and ending on the date under consideration and includes all intervening employment as a judge.

Sec. 10. A person who:

- (1) begins service as a judge after August 31, 1985; and
 - (2) is not a participant in the fund;
- shall become a participant in the fund.

Sec. 11. (a) A participant shall make contributions to this fund of six percent (6%) of each payment of salary received for services as judge. However, the employer may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.

(b) Participants' contributions, other than participants' contributions paid by the employer, shall be deducted from the monthly salary of each participant by the auditor of state and by the county auditor and credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22. However, a contribution is not required:

- (1)** because of any salary received after the participant has contributed to the fund for twenty-two (22) years; or
- (2)** during any period that the participant is not serving as judge.

Sec. 12. (a) A participant who:

- (1)** ceases service as a judge, other than by death or disability; and
- (2)** is not eligible for a retirement benefit under this chapter; is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date on which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, the participant is entitled to receive the total sum contributed, payable within sixty (60) days from date of withdrawal application or in monthly installments as the participant may elect.

Sec. 13. A participant whose employment as judge is terminated is entitled to a retirement benefit computed under section 14 of this chapter, beginning on the date specified by the participant in a written application, if the following conditions are met:

- (1)** The date on which the benefit begins is not:
 - (A)** before the date of final termination of employment of the participant; or
 - (B)** the date thirty (30) days before the receipt of the application by the board.
- (2)** The participant:
 - (A)** is at least sixty-two (62) years of age and has at least

eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving a salary from the state for services currently performed, except for services rendered in the capacity of judge pro tempore or senior judge.

Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who:

(1) applies for a retirement benefit; and

(2) is at least:

(A) sixty-five (65) years of age; or

(B) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter;

is entitled to an annual retirement benefit as calculated in subsection (c).

(c) The annual retirement benefit for a participant who meets the requirements of subsection (b) equals the product of:

(1) the salary that was paid to the participant at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%

22 or more**60%**

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(d) Except as provided in section 13(2)(B) of this chapter and subsection (b)(2)(B), if a participant who applies for a retirement benefit has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

- (1) participants who are separated from service because of permanent disability;
- (2) survivors of participants who die while in service after August 1, 1992; or
- (3) survivors of participants who die while not in service but while entitled to a future benefit.

Sec. 15. (a) A participant is considered permanently disabled if the board has received a written certification by at least two (2) licensed and practicing physicians, appointed by the board, that:

- (1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and
- (2) the condition is likely to be permanent.

(b) The participant shall be reexamined by at least two (2) physicians appointed by the board, at the times the board designates but at intervals not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, then benefits shall cease to be payable as of the date of the examination unless, on that date, the participant is at least:

- (1) sixty-five (65) years of age; or
- (2) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter.

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated by the initial and periodic examinations and reviews to determine eligibility for disability benefits under this section shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

Sec. 16. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who becomes permanently disabled is entitled to an annual benefit that equals the product of:

- (1) the salary that was paid to the participant at the time of separation from service; multiplied by
- (2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

Sec. 17. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) The surviving spouse or child or children, as designated by the participant, of a participant who:

- (1) dies; and
- (2) on the date of death:
 - (A) was receiving benefits under this chapter;
 - (B) had completed at least eight (8) years of service and was in service as a judge; or
 - (C) was permanently disabled; or
 - (D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit;

are entitled, regardless of the participant's ages, to the benefit prescribed by subsection (c).

(c) The surviving spouse or child or children, as designated under subsection (b), are entitled to a benefit equal to the greater of:

(1) fifty percent (50%) of the amount of the retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 14(d) of this chapter; or

(2) the amount determined under the following table:

Year	Amount
July 1, 1995, to June 30, 1996	\$10,000
July 1, 1996, to June 30, 1997	\$11,000
July 1, 1997, and thereafter	\$12,000

(d) The benefit payable to a surviving spouse or surviving child or children under subsection (c) is subject to the following:

(1) A surviving spouse is entitled to receive the benefit for life.

(2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.

(3) If there is more than one (1) child designated by the participant, then the children are entitled to share the benefit in equal monthly amounts.

(4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share equally the benefit. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child or children named as a beneficiary by a participant survives the participant.

(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.

(C) A designation is not made.

(7) A benefit payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

Sec. 18. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) If a participant's spouse does not survive the participant, and there is no child designated and entitled to receive a benefit under section 17 of this chapter, any surviving dependent child of a participant is, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section 17 of this chapter.

(c) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, the dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section 17 of this chapter.

(d) If there is more than one (1) dependent child, then the dependent children are entitled to share the benefit equally.

(e) A dependent child is entitled to receive the child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

Sec. 19. (a) Benefits provided under this section are subject to IC 33-38-6-13.

(b) If benefits are not payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board, the total of the participant's contributions plus interest (as determined by the board) minus any payments made to the participant shall be paid to:

(1) the surviving spouse of the participant or a child or

- children of the participant, as designated by the participant;
- (2) any other dependent or dependents of the participant, if a spouse or designated child or children does or do not survive;
- or
- (3) the participant's estate, if a spouse, designated child or children, or other dependent does or do not survive.

(c) The amount owed a spouse, designated child or children, or other dependent or dependents, or estate under subsection (b) is payable within sixty (60) days from the date of receipt of the withdrawal application or in the monthly installments as the recipient elects.

Sec. 20. Notwithstanding any other provision of this chapter, benefits paid under this chapter may not exceed the maximum annual benefit specified by Section 415 of the Internal Revenue Code.

Sec. 21. (a) A judge is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

- (1) at any time when the judge is not serving as judge; or
- (2) during any period of service as a senior judge under IC 33-23-3.

Sec. 22. (a) This section applies to a person who:

- (1) is a judge participating under this chapter;
- (2) before becoming a judge was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate;
- (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and
- (4) received credited service under the public employees' retirement fund for the employment described in subdivision

(2).

(b) If a person becomes a participant in the judges' 1985 benefit system under section 1 of this chapter, credit for prior service by the judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

(1) the prior service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1985 benefit system the amount the board determines necessary to amortize the prior service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1985 benefit system during the prior service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1985 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section 13(2)(b) of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring

member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section 13(2)(b) of this chapter that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for prior service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the prior service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer

from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Sec. 23. (a) This section applies only to a person who:

- (1) is a judge participating under this chapter;
- (2) before becoming a judge was a member of a public employees' retirement fund;
- (3) received credited service under a public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 22 of this chapter;
- (4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and
- (5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1985 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

- (1) the prior service was credited under a public employees' retirement fund; and
- (2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1985 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1985

benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Chapter 9. Judicial Conference of Indiana and the Indiana Judicial Center

Sec. 1. As used in this chapter, "judicial conference" refers to the judicial conference of Indiana established by section 3 of this chapter.

Sec. 2. As used in section 4 of this chapter, "trial court judges" refers only to those trial court judges who are members of the judicial conference under section 3 of this chapter.

Sec. 3. (a) The judicial conference of Indiana is established.

(b) The membership of the judicial conference consists of the following:

- (1) All justices of the supreme court.**
- (2) All judges of the court of appeals.**
- (3) The judge of the tax court.**
- (4) All circuit, superior, probate, and county court judges.**
- (5) All municipal court judges who are serving on a full-time basis.**
- (6) Any retired judge who serves as a special judge and notifies the conference of the service.**

(c) A full-time magistrate under IC 33-23-5 is a nonvoting member of the conference.

Sec. 4. (a) The activities of the judicial conference shall be directed by a board of directors having the following members:

- (1) The chief justice of Indiana.**
- (2) The chief judge of the court of appeals.**
- (3) The president of the Indiana judges association.**
- (4) The president of the Indiana council of juvenile court judges.**
- (5) One (1) judge from each of the trial court districts established by the supreme court, elected for a term of two (2) years by the trial court judges of the district.**
- (6) Five (5) trial court judges appointed for terms of one (1) year by the chief justice of Indiana.**

(b) The chief justice of Indiana shall serve as chairperson of the board of directors. The judicial conference, through the board of directors:

- (1) shall establish a staff agency to be designated the Indiana judicial center; and**
- (2) may establish positions for an executive director, staff personnel, and other necessary personnel.**

All personnel of the Indiana judicial center shall be appointed by the chief justice of Indiana, and their salaries shall be fixed by the supreme court, subject to appropriation by the general assembly.

Sec. 5. (a) The entire membership of the judicial conference shall meet:

- (1) at least once a year at a time and place to be fixed by the board of directors; and**
- (2) at other times as may be designated by the board of**

directors.

(b) The judicial conference may create committees either upon action of the board of directors or by majority vote of the members attending a meeting of the judicial conference. The judicial conference, the board of directors, or any committee of the judicial conference may hold hearings on any question related to the duties set out in section 6 of this chapter. A proposal for legislation relating to courts that is made by the judicial conference shall be presented to the division of state court administration for study and recommendation by the division before being presented to the general assembly.

Sec. 6. The judicial conference shall do the following:

- (1) Promote an exchange of experience and suggestions regarding the operation of Indiana's judicial system.
- (2) Promote the continuing education of judges.
- (3) Seek to promote a better understanding of the judiciary.
- (4) Act as administrator for probationers participating in the interstate compact for the supervision of parolees and probationers under IC 11-13-4-3.
- (5) Act as compact administrator for probationers participating in the interstate compact on juveniles under IC 11-13-4-3.

Sec. 7. All members, including full-time magistrates, shall attend and those invited to participate may attend the meetings of the judicial conference. Per diem and travel allowances authorized by law shall be paid to the members and full-time magistrates attending from the annual appropriation to the judicial conference.

Sec. 8. (a) The Indiana judicial center shall maintain a roster of in-state facilities that have the expertise to provide child services (as defined in IC 12-19-7-1) in a residential setting to:

- (1) children in need of services (as described in IC 31-34-1); or
- (2) delinquent children (as described in IC 31-37-1 and IC 31-37-2).

(b) The roster under subsection (a) must include the information necessary to allow a court having juvenile jurisdiction to select an in-state placement of a child instead of placing the child in an out-of-state facility under IC 31-34 or IC 31-37. The roster must include at least the following information:

- (1) Name, address, and telephone number of each facility.

(2) Owner and contact person for each facility.

(3) Description of the child services that each facility provides and any limitations that the facility imposes on acceptance of a child placed by a juvenile court.

(4) Number of children that each facility can serve on a residential basis.

(5) Number of residential openings at each facility.

(c) The Indiana judicial center shall revise the information in the roster at least monthly.

(d) The Indiana judicial center shall make the information in the roster readily available to courts with juvenile jurisdiction.

Sec. 9. The Indiana judicial center shall administer the alcohol and drug services program under IC 12-23-14 and the certification of drug courts under IC 12-23-14.5.

Chapter 10. Private Judges

Sec. 1. As used in this chapter, "private judge" means a person who is qualified to act as judge of a case under this chapter.

Sec. 2. (a) A person who:

(1) has been but is not currently a judge of a circuit, superior, criminal, probate, municipal, or county court and has served in the capacity of judge for at least four (4) consecutive years;

(2) is admitted to the practice of law in Indiana; and

(3) is a resident of Indiana;

may act as judge for certain cases under this chapter.

(b) A person may act as a judge of a case under this chapter only if:

(1) all parties to the action file a written petition with the executive director of the division of state court administration consenting to the case being heard by a private judge, and naming the person whom the parties wish to have as private judge;

(2) the case is one over which the court in which the former judge served would have had subject matter and monetary jurisdiction;

(3) the case is founded exclusively on contract, tort, or a combination of contract and tort; and

(4) the case is one in which a utility (as defined in IC 8-1-2-1) is not a party.

Sec. 3. (a) A former judge qualified under section 2(a) of this

chapter who wishes to serve as a private judge must register with the executive director of the division of state court administration. The executive director shall:

- (1) compile;
- (2) periodically update; and
- (3) make available to the public;

a list of registered former judges.

(b) If the parties to an action wish to have the action heard before a private judge, the parties shall submit to the executive director of the division of state court administration a written petition as described in section 2(b)(1) of this chapter. After verifying that the former judge is qualified under section 2(a) of this chapter and is registered under subsection (a), the executive director shall forward the petition to the former judge named on the petition.

(c) The regular or presiding judge of the court in which the action is filed shall appoint the private judge to hear the action if the written petition of the parties to the action and the written consent of the private judge to hear the action is presented to the regular or presiding judge:

- (1) contemporaneously with the filing of the action; or
- (2) after the action has been filed.

Sec. 4. (a) A trial conducted by a private judge shall be conducted without a jury.

(b) A person who serves as a private judge has, for each case the private judge hears, the same powers as the judge of a circuit court in relation to:

- (1) court procedure;
- (2) deciding the outcome of the case;
- (3) attendance of witnesses;
- (4) punishment of contempts;
- (5) enforcement of orders;
- (6) administering oaths; and
- (7) giving all necessary certificates for the authentication of the records and proceedings.

(c) All proceedings in an action heard by a private judge are of record and must be:

- (1) filed with the clerk of the circuit court in the county of proper venue under the Indiana Rules of Trial Procedure;

and

(2) made available to the public in the same manner as circuit court records.

(d) The Indiana Rules of Trial Procedure apply for all actions brought before a private judge. An appeal from an action or a judgment of a private judge may be taken in the same manner as an appeal from the circuit court of the county where the case is filed.

Sec. 5. Costs in an action brought before a private judge shall be taxed and distributed in the same manner as costs in the circuit court of the county in which the case is filed.

Sec. 6. (a) The clerk of the circuit court of the county in which the case is filed serves as the clerk of the court for a case heard by a private judge, and the sheriff of that county serves as the sheriff of the court for the case. The clerk and the sheriff shall attend the proceedings and perform the same duties relating to their offices as are required for the circuit court of the county in which the case is filed.

(b) The clerk of the circuit court of the county in which the case is filed shall provide to a private judge for each case all books, dockets, papers, and printed blanks necessary to discharge the duties of the court.

Sec. 7. (a) A case heard by a private judge may be heard:

- (1) at any time; and
- (2) at any place in Indiana;

that is mutually agreeable to all parties and the judge.

(b) There shall be posted in the office of the clerk of the circuit court of the county in which the case is filed, in a place accessible to the public, a notice of the date, time, and place of any proceeding, including:

- (1) a hearing on a motion for judgment by default;
- (2) a hearing for judgment on the pleadings;
- (3) a hearing for summary judgment; and
- (4) a trial upon the merits;

that could result in a judgment. The notice shall be posted at least three (3) days before the proceeding is conducted.

Sec. 8. Notwithstanding the rules of trial procedure, a private judge may receive compensation for hearing a case in an amount and subject to the terms and conditions agreed to by the judge and

the parties to the case. A contract for the services of a private judge must provide for the payment of the judge's compensation by the parties. In addition, the contract must include terms and conditions relating to:

- (1) the compensation of all personnel; and
- (2) the costs of all facilities and materials;

as determined by the clerk of the court that are used in relation to the case and not otherwise covered.

Sec. 9. The supreme court shall adopt rules to carry out this chapter.

Chapter 11. Temporary Judges

Sec. 1. (a) The judge of a circuit, superior, or county court may appoint temporary judges. Each temporary judge must be:

- (1) a competent attorney admitted to the practice of law in Indiana; and
- (2) a resident of the judicial district of the court after the temporary judge's appointment.

The temporary judge's appointment must be in writing. The temporary judge continues in office until removed by the judge.

(b) A temporary juvenile law judge may be appointed under this subsection for the exclusive purpose of hearing cases arising under IC 31-30 through IC 31-40. The appointment shall be made under an agreement between at least two (2) judges of courts located:

- (1) in the same county; or
- (2) in counties that are adjacent to each other.

(c) An agreement under subsection (b) must:

- (1) be filed with the circuit court clerk of each county in which a court subject to the agreement is located;
- (2) specify the duration of the agreement, which may not exceed one (1) year; and
- (3) permit a judge to end the participation of a court in the agreement.

Sec. 2. A temporary judge:

- (1) may:
 - (A) administer all oaths and affirmations required by law;
 - (B) take and certify affidavits and depositions; and
 - (C) issue subpoenas for witnesses whose testimony is to be taken before the temporary judge;
- (2) has the same power to compel the attendance of witnesses

and to punish contempts as the judge of the court;

(3) may:

- (A) conduct preliminary hearings in criminal matters;
- (B) issue search warrants and arrest warrants; and
- (C) fix bond; and

(4) may enforce court rules.

Sec. 3. (a) Except as provided in subsection (b), a temporary judge may hear evidence upon and report findings to the judge of the court for each probate, civil, criminal, and other case referred to the temporary judge by that judge. The temporary judge may:

- (1) make the final judgment in these cases; and
- (2) in a criminal case tried by the court, conduct all sentencing hearings in the case.

(b) If a defendant is being tried for a felony, the judge of the court shall conduct all sentencing hearings and make the final judgment in the case.

Sec. 4. A temporary judge may:

- (1) conduct a jury trial;
- (2) receive the verdict of the jury; and
- (3) make and enter the judgment on the jury verdict;

in a civil case referred to the temporary judge by the judge of the court.

Sec. 5. In a criminal jury trial referred to a temporary judge by the judge of the court, the temporary judge may conduct the trial, receive the verdict of the jury, conduct all sentencing hearings, and make all final judgments. However, if the criminal case is a case in which the defendant is being tried for a felony, the judge of the court shall:

- (1) make the final judgment in the case; and
- (2) conduct all sentencing hearings in the case.

Sec. 6. The judge of the court may:

- (1) limit any of the rights or powers of the temporary judge specified in this chapter; and
- (2) specifically determine the duties of the temporary judge within the limits established in this chapter.

Sec. 7. A temporary judge may serve as a judge pro tempore or a special judge of the court but is not entitled to additional compensation for that service.

Sec. 8. A temporary judge has no power of judicial mandate.

Sec. 9. A temporary judge is entitled to twenty-five dollars (\$25), paid by the county, for each day of service as a temporary judge.

Sec. 10. Except for:

- (1) a temporary juvenile law judge appointed under section 1(b) of this chapter for the exclusive purpose of hearing cases arising under IC 31-30 through IC 31-40; or
- (2) a temporary judge appointed by a court located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000);

a temporary judge appointed under this chapter may not serve for more than sixty (60) calendar days in all during a calendar year.

Sec. 11. A temporary judge appointed under this chapter may serve even though the judge of the court is present and presiding in the court.

Chapter 12. Defense and Indemnification of Judges for Civil Damages

Sec. 1. This chapter does not apply to a threatened, pending, or completed action or proceeding that:

- (1) results in the criminal conviction of; or
- (2) is a disciplinary action or proceeding against;

a judge.

Sec. 2. As used in this chapter, "expenses" includes the following:

- (1) Reasonable attorney's fees, if the attorney general has authorized the executive director of the division of state court administration to hire private counsel to provide the defense.
- (2) A judgment.
- (3) A settlement.
- (4) Court costs.
- (5) Discovery costs.
- (6) Expert witness fees.
- (7) Any other expense incurred as a result of an action or a proceeding.

Sec. 3. As used in this chapter, "judge" means an individual who holds or formerly held one (1) of the following offices or appointments:

- (1) Justice of the supreme court.
- (2) Judge of the court of appeals.

- (3) Judge of the tax court.
- (4) Judge of a circuit court.
- (5) Judge of a superior court.
- (6) Judge of a probate court.
- (7) Judge of a municipal court.
- (8) Judge of a county court.
- (9) Judge of a city court.
- (10) Judge of a town court.
- (11) Judge of a small claims court.
- (12) A judge pro tempore, senior judge, temporary judge, or any other individual serving as judge in an action or a proceeding in an Indiana court.
- (13) Bail commissioner.
- (14) Magistrate.
- (15) Master commissioner.
- (16) Probate commissioner.
- (17) Referee.

Sec. 4. The state shall pay the expenses incurred by a judge from a threatened, pending, or completed action or proceeding that arises from:

- (1) making;
- (2) performing; or
- (3) failing to make or perform;

a decision, a duty, an obligation, a privilege, or a responsibility of the judge's office.

Chapter 13. The Commission on Judicial Qualifications and the Retirement, Discipline, and Removal of Justices and Judges

Sec. 1. This chapter applies to all proceedings before the commission on judicial qualifications and masters involving the censure, retirement, or removal of justices of the supreme court and judges of the court of appeals, as provided by Article 7, Section 11 of the Constitution of the State of Indiana.

Sec. 2. As used in this chapter, "commission" means the commission on judicial qualifications described in Article 7, Section 9 of the Constitution of the State of Indiana.

Sec. 3. As used in this chapter, "counsel" means the lawyer designated by the commission to:

- (1) gather and present evidence before the masters or commission with respect to the charges against a judge; and

(2) represent the commission before the supreme court in connection with any proceedings before the court.

Sec. 4. As used in this chapter, "judge" means a judge of the court of appeals.

Sec. 5. As used in this chapter, "mail" includes ordinary mail or personal delivery.

Sec. 6. As used in this chapter, "masters" means the special masters appointed by the chief justice upon request of the commission.

Sec. 7. As used in this chapter, "presiding master" means the master so designated by the chief justice or, in the absence of a designation, the justice or judge named in the order appointing masters.

Sec. 8. (a) Every justice of the supreme court and judge of the court of appeals shall retire at seventy-five (75) years of age.

(b) Notwithstanding subsection (a), the supreme court may authorize retired justices and judges to perform temporary judicial duties in any state court.

Sec. 9. (a) The commission shall meet as necessary to discharge its statutory and constitutional responsibilities. Meetings of the commission shall be called in the same manner as prescribed for the judicial nominating commission. Four (4) members of the commission constitute a quorum for the transaction of business.

(b) Meetings of the commission shall be held in Indiana as the chairman of the commission arranges.

(c) The commission may act only at a meeting. The commission may adopt rules and regulations to conduct meetings and discharge its duties.

Sec. 10. (a) All papers filed with the commission before the institution of formal proceedings under section 14 of this chapter are confidential unless:

(1) the justice or judge against whom a recommendation has been filed elects to have the information divulged; or

(2) the commission elects to answer publicly disseminated statements issued by any complainant.

(b) All papers filed with the commission during and after the institution of formal proceedings are open for public inspection at all reasonable times. Records of commission proceedings are open for public inspection at all reasonable times. After the institution

of formal proceedings, all hearings and proceedings before the commission or before the masters appointed under this chapter are open to the public.

Sec. 11. Filing papers with and giving testimony before the commission or the masters appointed by the supreme court under this chapter are privileged.

Sec. 12. (a) A complaint filed with the commission must be in writing and directed to the commission or to any member of the commission.

(b) A specified form of complaint may not be required.

Sec. 13. (a) Any Indiana citizen may complain to the commission about the activities, fitness, or qualifications of a judge or justice. Upon receiving a complaint, the commission shall determine if the complaint is founded and not frivolous. If the commission determines that the complaint is frivolous or malicious, the commission shall file with the proper court charges against the complainant. The commission, without receiving a complaint, may conduct an initial inquiry on its own motion.

(b) If the commission determines it is necessary to investigate a justice or judge, the commission shall notify the justice or judge by prepaid registered or certified mail addressed to the justice or judge at the justice's or judge's chambers and last known residence. The notice must contain information concerning the following:

- (1) The investigation.
- (2) The nature of the complaint.
- (3) The origin of the complaint, including the name of the complainant or that the investigation is on the commission's motion.
- (4) The opportunity to present matters as the justice or judge may choose.

If the investigation does not disclose sufficient cause to warrant further proceedings the justice or judge shall be so notified.

(c) The commission may do the following:

- (1) Make investigations or employ special investigators.
- (2) Hold confidential hearings with the complainant or the complainant's agents or attorneys.
- (3) Hold confidential hearings with the judge or justice involved in the complaint.

(d) If:

- (1) the commission's initial inquiry or investigation does not disclose sufficient cause to warrant further proceedings; and**
- (2) the complainant issues a public statement relating to the activities or actions of the commission;**

the commission may answer the statement by referring to the record of its proceedings or the results of its investigation.

Sec. 14. (a) If the commission concludes, after investigation, to institute formal proceedings against a justice or judge, the commission shall give written notice of the proceedings to the justice or judge by registered or certified mail addressed to the judge at the judge's chambers and last known residence. The proceedings must be entitled:

**"BEFORE THE INDIANA JUDICIAL
QUALIFICATIONS COMMISSION**

Inquiry Concerning a (Justice) Judge, No. _____".

(b) The notice must:

- (1) be issued in the name of the commission;**
- (2) specify in ordinary and concise language the charges against the justice or judge and the alleged facts upon which the charges are based; and**
- (3) advise the justice or judge of the justice's or judge's right to file a written answer to the charges not more than twenty (20) days after service of the notice.**

A charge is not sufficient if it merely recites the general language of the original complaint, but must specify the facts relied upon to support a particular charge.

(c) A copy of the notice shall be filed in the office of the commission.

Sec. 15. Not more than twenty (20) days after service of the notice of formal proceedings, the justice or judge:

- (1) may file with the commission a signed original and one (1) copy of an answer; and**
- (2) shall mail a copy of the answer to the counsel.**

Sec. 16. (a) Upon the filing of or the expiration of time for filing an answer, the commission shall:

- (1) hold a hearing concerning the discipline, retirement, or removal of the justice or judge; or**
- (2) request the supreme court to appoint three (3) active or**

retired justices or judges of courts of record as special masters to hear and take evidence and report to the commission.

(b) The commission shall:

- (1) set a date, time, and place for a hearing under subsection (a); and**
- (2) give notice of the hearing by registered or certified mail to the justice or judge, the masters, and the counsel not less than twenty (20) days before the date of the hearing.**

Sec. 17. (a) The commission or a master may proceed with a scheduled hearing whether or not the judge files an answer or appears at the hearing.

(b) The failure of a justice or judge to answer or appear at the hearing may not be taken as evidence of the truth of the facts alleged to constitute grounds for censure, retirement, or removal. In a proceeding for involuntary retirement for disability, the failure of a justice or judge to testify in the justice's or judge's behalf or to submit to a medical examination requested by the commission or the masters may be considered, unless the failure was due to circumstances beyond the justice's or judge's control.

(c) The hearing shall be reported verbatim.

(d) At least four (4) commission members must be present when evidence is produced at a hearing before the commission.

Sec. 18. The Indiana Rules of Evidence apply at a hearing before the commission or the masters.

Sec. 19. (a) In formal proceedings involving a justice's or judge's discipline, retirement, or removal, the justice or judge may do the following:

- (1) Defend against the charges by introducing evidence.**
- (2) Be represented by counsel.**
- (3) Examine and cross-examine witnesses.**
- (4) Issue subpoenas for attendance of witnesses to testify or produce evidentiary matter under section 31 of this chapter.**

(b) The commission shall transcribe the testimony and provide a copy at no cost to the justice or judge. The justice or judge is entitled to have any part of the testimony transcribed at the justice's or judge's expense.

(c) Except as otherwise provided in this chapter, notice or any other matter shall be sent to a justice or judge by registered or

certified mail to the justice or judge at the justice's or judge's office and residence unless the justice or judge requests otherwise in writing. A copy of the notice or other matter must be mailed to the justice's or judge's attorney of record.

(d) If a justice or judge has been adjudged incapacitated under IC 29-3, the justice's or judge's guardian may claim and exercise any right and privilege and make any defense for the justice or judge with the same force and effect as if claimed, exercised, or made by the justice or judge if competent. If the rules provide for serving or giving notice or sending any matter to the justice or judge, a copy of any notice or other matter sent to the justice or judge also shall be served, given, or sent to the justice's or judge's guardian.

Sec. 20. The masters, at any time before the conclusion of the hearing, or the commission, at any time before its determination:

(1) may allow or require amendments to the notice of formal proceedings; and

(2) may allow amendments to the answer.

The notice may be amended to conform to proof or to set forth additional facts whether occurring before or after the commencement of the hearing. If an amendment is made, the justice or judge shall be given reasonable time both to answer the amendment and to prepare and present a defense.

Sec. 21. (a) After a hearing, the masters shall promptly prepare and transmit to the commission an original and four (4) copies of a transcript of the hearing and an original and four (4) copies of a report that contains a brief statement of the proceedings and the masters' recommended findings of fact. The recommended findings of facts are not binding upon the commission.

(b) Upon receiving the report of the masters, the commission shall mail a copy of the report and transcript to the justice or judge and the counsel.

Sec. 22. Not more than fifteen (15) days after the commission mails a copy of the report of the masters to the justice or judge, the counsel or the justice or judge may file with the commission an original and one (1) copy of objections to the report of masters. If the counsel files objections, the counsel shall mail a copy of the objections to the justice or judge. If the justice or judge files objections, the justice or judge shall send a copy of the objections

by registered or certified mail to the counsel.

Sec. 23. If objections to a report of the masters under section 21 of this chapter are not timely filed, the commission may adopt the recommended findings of the masters without a hearing. If objections are timely filed, or if objections are not timely filed and the commission proposes to modify or reject the recommended findings of the masters, the commission shall give the justice or judge and the counsel an opportunity to be heard before the commission in the county in which the justice or judge resides. The commission shall mail written notice of the time and place of the hearing to the justice or judge and the counsel not less than ten (10) days before the hearing.

Sec. 24. (a) The chairman of the commission may extend the time for:

- (1) filing an answer;
- (2) conducting a hearing before the commission; and
- (3) filing objections to the report of the masters.

(b) The presiding master may, with the approval of the chairman of the commission, extend the time for conducting a hearing before the masters.

Sec. 25. The commission may order a hearing to take additional evidence at any time while a matter is pending before it. The hearing must be in the county in which the justice or judge resides. The order must set the time and place of the hearing and shall indicate the matters on which evidence will be taken. The commission shall send a copy of the order to the judge and the counsel not less than ten (10) days before the hearing. If masters have been appointed, the hearing shall be before the masters, and the hearing must conform with sections 18 through 24 of this chapter and this section.

Sec. 26. If the commission finds good cause, it shall recommend to the supreme court the censure, retirement, or removal of a justice or judge. If a hearing is before the masters, the affirmative vote of four (4) members of the commission is required to recommend censure, retirement, or removal of a justice or judge. If a hearing is before the commission, the affirmative vote of four (4) members of the commission, including a majority of the members who were present at the hearing, is required to recommend censure, retirement, or removal of a justice or judge.

Sec. 27. The commission shall keep a record of all formal proceedings concerning a judge. The commission shall record its determination and mail notice of the determination to the justice or judge and the counsel. If the commission recommends censure, retirement, or removal, the commission shall prepare a transcript of the evidence and proceedings and shall make written findings of fact and conclusions of law.

Sec. 28. Upon recommending the censure, retirement, or removal of a justice or judge, the commission shall promptly file the following with the clerk of the supreme court:

- (1) A copy of the recommendation certified by the chairman or secretary of the commission.
- (2) A transcript of the evidence.
- (3) Findings of fact and conclusions of law.

The commission shall promptly mail to the justice or judge and the counsel notice of the filing and copies of the filed documents.

Sec. 29. (a) Not more than thirty (30) days after a certified copy of the commission's recommendation is filed with the clerk of the supreme court, a justice or judge may petition the supreme court to modify or reject the commission's recommendation.

(b) The justice or judge shall verify the petition. The petition must be based on the record. The petition must specify the grounds relied on and must be accompanied by the petitioner's brief and proof of service of two (2) copies of the petition and brief on the commission and one (1) copy of the petition and brief on the counsel.

(c) Not more than twenty (20) days after service of the petitioner's brief, the commission shall file a respondent's brief and serve a copy on the justice or judge. Not more than twenty (20) days after service of respondent's brief, the petitioner may file a reply brief and shall serve two (2) copies on the commission and one (1) copy on the counsel.

(d) Failure to timely file a petition is considered consent to the determination on the merits based upon the record filed by the commission.

(e) To the extent necessary and not inconsistent with this section, the Indiana Rules of Appellate Procedure apply to reviews by the supreme court of commission proceedings.

Sec. 30. The commission has jurisdiction and powers necessary

to conduct the proper and speedy disposition of any investigation or hearing, including the powers to depose witnesses and to order the production of documentary evidence. A member of the commission or a master may administer oaths to witnesses in a matter under the commission's jurisdiction.

Sec. 31. (a) A master may issue a subpoena for:

- (1) the attendance of witnesses;**
- (2) the production of documentary evidence; or**
- (3) discovery;**

in a proceeding before the masters. The master shall serve the subpoena in the manner provided by law.

(b) The chairman of the commission may issue a subpoena for:

- (1) the attendance of witnesses;**
- (2) the production of documentary evidence; or**
- (3) discovery;**

in a proceeding before the commission in which masters have not been appointed. The chairman shall serve the subpoena in the manner provided by law.

Sec. 32. If a witness in a commission proceeding:

- (1) fails or refuses to attend upon subpoena; or**
- (2) refuses to testify or produce documentary evidence demanded by subpoena;**

a circuit court may enforce the subpoena.

Sec. 33. A master may issue a subpoena for:

- (1) the attendance of witnesses;**
- (2) the production of documentary evidence; or**
- (3) discovery;**

in a proceeding before the masters. The master shall serve the subpoena in the manner provided by law.

Sec. 34. (a) In all formal proceedings, discovery is available to the commission and the judge or justice under the Indiana Rules of Civil Procedure. A motion requesting a discovery order must be made to the circuit court judge in the county in which the commission hearing is held.

(b) In all formal proceedings, the counsel shall provide the following to the judge or justice at least twenty (20) days before the hearing:

- (1) The names and addresses of all witnesses whose testimony the counsel expects to offer at the hearing.**

(2) Copies of all written statements and transcripts of testimony of witnesses described in subdivision (1) that:

- (A) are in the possession of the counsel or the commission;**
- (B) are relevant to the hearing; and**
- (C) have not previously been provided to the justice or judge.**

(3) Copies of all documentary evidence that the counsel expects to offer in evidence at the hearing.

(c) Upon objection of the justice or judge, the following are not admissible in a hearing:

(1) The testimony of a witness whose name and address have not been furnished to the judge or justice under subsection (b).

(2) Documentary evidence that has not been furnished to the judge or justice under subsection (b).

(d) After formal proceedings have been instituted, the justice or judge may request in writing that the counsel furnish to the justice or judge the names and addresses of all witnesses known at any time to the counsel who have information that may be relevant to a charge against or a defense of the justice or judge. The counsel shall provide to the justice or judge copies of documentary evidence that:

(1) are known at any time to the counsel or in the possession at any time of the counsel or the commission;

(2) are relevant to a charge against or defense of the justice or judge; and

(3) have not previously been provided to the justice or judge.

The counsel shall comply with a request under this subsection not more than ten (10) days after receiving the request and not more than ten (10) days after the counsel becomes aware of the information or evidence.

(e) During the course of an investigation by the commission, the justice or judge whose conduct is being investigated may demand in writing that the commission:

(1) institute formal proceedings against the justice or judge;
or

(2) enter a formal finding that there is not probable cause to believe that the justice or judge is guilty of any misconduct.

The commission shall comply with a request under this subsection

not more than sixty (60) days after receiving the request. A copy of the request shall be filed with the supreme court. If the commission finds that there is not probable cause, the commission shall file the finding with the supreme court. A document filed with the supreme court under this subsection is a matter of public record.

Sec. 35. This chapter does not encroach upon or impair the vested rights of a justice or judge or the surviving spouse of a justice or judge under any constitutional or statutory retirement program.

Chapter 14. The Commission on Judicial Qualifications and the Discipline of Judges of Superior, Probate, Juvenile, and Criminal Courts

Sec. 1. It is the purpose of this chapter to provide that judges of superior, probate, juvenile, or criminal courts in counties described in section 9 of this chapter are subject to disciplinary action on the grounds and in the manner set forth in this chapter.

Sec. 2. As used in this chapter, "commission" means the commission on judicial qualifications described in Article 7, Section 9 of the Constitution of the State of Indiana.

Sec. 3. As used in this chapter, "counsel" means the lawyer designated by the commission to:

- (1) gather and present evidence before the masters or the commission with respect to the charges against a judge; and
- (2) represent the commission before the supreme court in connection with any proceedings before the court.

Sec. 4. As used in this chapter, "judge" means a judge of a superior or probate court.

Sec. 5. As used in this chapter, "mail" includes ordinary mail or personal delivery.

Sec. 6. As used in this chapter, "masters" means the special masters appointed by the chief justice upon request of the commission.

Sec. 7. As used in this chapter, "presiding master" means the master so designated by the chief justice or, in the absence of a designation, the justice or judge named in the order appointing masters.

Sec. 8. The commission is the commission on judicial qualifications for judges of superior and probate courts in the counties described in section 9 of this chapter. The members of the

commission on judicial qualifications for the court of appeals and the supreme court are the members of the commission on judicial qualifications for judges of the superior and probate courts.

Sec. 9. (a) The commission shall exercise disciplinary jurisdiction over judges.

(b) In a county in which a commission on judicial qualifications operated by virtue of law before July 26, 1973, the county commission on judicial qualifications ceases to exercise disciplinary jurisdiction over the county courts and the commission shall exercise disciplinary jurisdiction. However, if the law creating a county commission on judicial qualifications in a county before July 26, 1973, precluded judges subject to its disciplinary jurisdiction from participating in political activities because the judges are selected by a merit system, the judges are precluded from participating in political activities.

(c) The operation and function of a judicial nominating commission operating in a county by virtue of law before July 26, 1973, is not affected by this chapter.

Sec. 10. (a) A judge is disqualified from acting as a judicial officer, without loss of salary, while there is pending:

- (1)** an indictment or information charging the judge in a United States court with a crime punishable as a felony under Indiana or federal law; or
- (2)** a recommendation to the supreme court by the commission for the judge's removal or retirement.

(b) On recommendation of the commission or on its own motion, the supreme court may suspend a judge from office without salary if in a United States court the judge pleads guilty or no contest or is found guilty of a crime that:

- (1)** is punishable as a felony under Indiana or federal law; or
- (2)** involves moral turpitude under the law.

If the judge's conviction is reversed, the suspension terminates and the judge shall be paid the judge's salary for the period of suspension. If the judge's conviction becomes final, the supreme court shall remove the judge from office.

(c) On recommendation of the commission, the supreme court may:

- (1)** retire a judge for a disability that:
 - (A)** seriously interferes with the performance of the judge's

duties; and

(B) is or is likely to become permanent; and

(2) censure or remove a judge for an action that:

(A) occurs not more than six (6) years before the beginning of the judge's current term; and

(B) constitutes at least one (1) of the following:

(i) Willful misconduct in office.

(ii) Willful or persistent failure to perform the judge's duties.

(iii) Habitual intemperance.

(iv) Conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

A judge retired under this subsection is considered to have retired voluntarily. A judge removed under this subsection is ineligible for judicial office and, pending further order of the supreme court, is suspended from the practice of law in Indiana.

Sec. 11. (a) The commission shall meet as necessary to discharge its statutory responsibilities. Meetings of the commission shall be called in the same manner as prescribed for the judicial nominating commission. Four (4) members of the commission constitute a quorum.

(b) Commission meetings are to be held in Indiana on the call of the chairman.

(c) The commission may act only at a meeting. The commission may adopt rules and regulations to conduct its meetings and discharge its duties.

Sec. 12. (a) Papers filed with and proceedings before the commission before the institution of formal proceedings are confidential unless:

(1) the judge against whom a recommendation is filed elects to have the information divulged; or

(2) the commission elects to answer public statements by a complainant.

(b) Papers filed with the commission during or after the institution of formal proceedings are open for public inspection at all reasonable times. Records of commission proceedings are open for public inspection at all reasonable times. All hearings and proceedings before the commission, after the institution of formal proceedings, are open to the public.

Sec. 13. Filing papers with or giving testimony before the commission or the masters under this chapter is privileged.

Sec. 14. (a) Any citizen of Indiana may file with the commission a written and verified complaint on the judicial fitness of a judge of a superior, criminal, juvenile, or probate court of Indiana.

(b) A specified form of complaint may not be required.

Sec. 15. (a) A judge may request retirement due to disability.

(b) A citizen of Indiana may complain to the commission about the activities, fitness, or qualifications of a judge. Upon receipt of a complaint, the commission shall determine if the complaint is frivolous. The commission may, on its own motion, inquire into the activities, fitness, or qualifications of a judge.

(c) If the commission determines it is necessary to investigate a judge, the commission shall notify the judge by prepaid registered or certified mail addressed to the judge at the judge's chambers and last known residence of the following:

(1) The investigation.

(2) The nature of the complaint.

(3) The origin of the complaint, including the name of the complainant or that the investigation is on the commission's motion.

(4) The opportunity to present in the court of the investigation matters as the judge chooses.

(d) The commission may do the following:

(1) Conduct investigations.

(2) Employ special investigators.

(3) Hold confidential hearings with the judge's or commission's agents or attorneys.

(4) Hold confidential hearings with any judge involved.

(e) If:

(1) the commission's initial inquiry or investigation does not disclose sufficient cause to warrant further proceedings; and

(2) the complainant subsequently issues any public statement relating to the activities or actions of the commission;

the commission may answer the statement by referring to the record of proceedings or the results of the investigations.

Sec. 16. (a) If the commission decides to institute formal proceedings, the commission shall give written notice to the judge advising the judge of the institution of formal proceedings to

inquire into the charges against judge. The proceedings must be entitled:

"BEFORE THE INDIANA JUDICIAL QUALIFICATIONS COMMISSION

Inquiry Concerning a Judge, No. _____".

(b) The notice must:

(1) specify in ordinary and concise language the charges against the judge and the alleged facts upon which the charges are based; and

(2) advise the judge of the judge's right to file a written answer not more than twenty (20) days after service of notice.

A charge is not sufficient if it recites the general language of the original complaint.

(c) The notice shall be made upon the judge by registered or certified mail addressed to the judge at the judge's chambers and last known residence.

Sec. 17. Not more than twenty (20) days after service of the notice of formal proceedings, the judge:

(1) may file with the commission a signed original and one (1) copy of an answer; and

(2) shall serve by mail a copy of the answer on the counsel.

Sec. 18. (a) Upon the filing of or the expiration of the time for filing an answer, the commission shall:

(1) order a hearing before the commission on the discipline, retirement, or removal of the judge; or

(2) request the supreme court to appoint three (3) active or retired judges of courts of record as special masters to hear and take evidence on the matter and to report to the commission.

(b) The commission shall:

(1) set a time and place in the state in which the judge involved resides for a hearing; and

(2) mail notice of the hearing to the judge, the masters, and the counsel at least twenty (20) days before the hearing date.

Sec. 19. (a) The commission, or the masters when the hearing is before the masters, may proceed with the hearing whether or not the judge files an answer or appears at the hearing.

(b) The failure of a judge to answer or to appear at the hearing by itself is not evidence of the facts alleged and does not constitute

grounds for censure, retirement, or removal. In a proceeding for involuntary retirement for disability, the failure of a judge to testify in the judge's own behalf or to submit to a medical examination requested by the commission or the masters may be considered, unless the failure was due to circumstances beyond the judge's control.

(c) The hearing shall be reported verbatim.

(d) At a hearing before the commission, not less than four (4) members must be present when the evidence is produced.

Sec. 20. The Indiana Rules of Evidence apply at a hearing before the commission or the masters.

Sec. 21. (a) In formal proceedings involving the discipline, retirement, or removal of a judge, the judge may:

- (1) defend against the charges by introducing evidence;
- (2) be represented by counsel;
- (3) examine and cross-examine witnesses; and
- (4) issue subpoenas for attendance of witnesses to testify or produce evidentiary matter.

(b) If testimony is transcribed at the expense of the commission, a copy shall be provided to the judge at no cost. The judge is entitled to have testimony transcribed at the judge's expense.

(c) Except as otherwise provided in this chapter, any notice or matter sent to the judge shall be mailed by registered or certified mail to the judge at the judge's office and residence unless the judge requests otherwise in writing. A copy of the notice or matter shall be mailed to the judge's counsel.

(d) If a judge has been adjudicated incapacitated under IC 29-3, the judge's guardian may exercise any right or privilege and make any defense for the judge as if exercised or made by the judge. If any notice or matter is sent to the judge, a copy of the notice or matter also shall be sent to the judge's guardian.

Sec. 22. The masters, before the conclusion of the hearing, or the commission, before its determination, may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts. If an amendment is made, the judge shall be given reasonable time to answer the amendment and to prepare and present a defense.

Sec. 23. (a) After a hearing before the masters, the masters shall

promptly transmit to the commission an original and four (4) copies of:

- (1) a transcript of the hearing; and
- (2) a report that contains a brief statement of the proceedings and recommended findings of fact.

The recommended findings of facts are not binding on the commission.

(b) Upon receiving the report of the masters, the commission shall promptly mail a copy of the report and transcript to the judge and the judge's counsel.

Sec. 24. Not more than fifteen (15) days after a copy of the report of the masters is mailed to the judge, the counsel or the judge may file with the commission an original and one (1) copy of objections to the report of the masters. If the counsel files objections, the counsel shall mail a copy of the objections to the judge. If the judge files objections, the judge shall mail a copy of the objections to the counsel.

Sec. 25. If objections to the report of the masters are not timely filed, the commission may adopt the recommended findings of the masters without a hearing. If objections are timely filed, or if objections are not timely filed and the commission proposes to modify or reject the recommended findings of the masters, the commission shall give the judge and the counsel an opportunity to be heard in the county where the judge resides. The commission shall mail to the judge and the counsel written notice of the time and place of the hearing not less than ten (10) days before the hearing.

Sec. 26. (a) The chairman of the commission may extend the time for:

- (1) filing an answer;
- (2) commencing a hearing before the commission; or
- (3) filing objections to the report of the masters.

(b) The presiding master, with the approval of the chairman of the commission, may extend the time for commencing a hearing before the masters.

Sec. 27. (a) The commission may order a hearing to take additional evidence at any time while the matter is pending before the commission. The order must set the time and place of the hearing in the county in which the judge resides and must indicate

the matters on which evidence will be taken. A copy of the order shall be mailed to the judge and the counsel at least ten (10) days before the hearing.

(b) If masters have been appointed, the hearing of additional evidence is before the masters in accordance with this chapter.

Sec. 28. If the commission finds good cause, it shall recommend to the supreme court the discipline, retirement, or removal of a judge. If a hearing is before the masters, the affirmative vote of four (4) commission members is required to recommend the discipline, retirement, or removal of a judge. If a hearing is before the commission, the affirmative vote of four (4) commission members, including a majority of the members present at the hearing, is required to recommend the discipline, retirement, or removal of a judge.

Sec. 29. The commission shall keep a record of all formal proceedings concerning a judge. The commission shall enter its determination in the record and mail notice to the judge and the counsel. If the commission recommends the discipline, retirement, or removal of a judge to the supreme court, the commission shall prepare a transcript of the evidence and proceedings and shall make written findings of fact and conclusions of law.

Sec. 30. Upon recommending the discipline, retirement, or removal of a judge, the commission shall file a copy of each of the following with the clerk of the supreme court:

- (1) The recommendation certified by the chairman or secretary of the commission.
- (2) The transcript.
- (3) The findings of fact and conclusions of law.

The commission shall mail to the judge and the counsel notice of the filing and copies of the filed documents.

Sec. 31. (a) A judge may petition the supreme court to modify or reject the recommendation of the commission for discipline, retirement, or removal of the judge not more than thirty (30) days after the certified copy of the commission's recommendation is filed with the clerk of the supreme court.

(b) A petition described in subsection (a) must:

- (1) be verified;
- (2) be based on the record;
- (3) specify the grounds relied on; and

(4) be accompanied by the petitioner's brief and proof of service of two (2) copies of the petition and brief on the commission and one (1) copy of the petition and brief on the counsel.

(c) Not more than twenty (20) days after service of the petitioner's brief, the commission shall file a respondent's brief and serve a copy of the brief on the judge.

(d) Not more than twenty (20) days after service of the respondent's brief, the judge may file a reply brief. The judge shall serve two (2) copies of the reply brief on the commission and one (1) copy of the reply brief on the counsel.

(e) Failure to timely file a petition is considered consent to the determination on the merits based on the record filed by the commission.

(f) To the extent necessary and not inconsistent with this section, the Indiana Rules of Appellate Procedure apply to reviews by the supreme court of commission proceedings.

Sec. 32. The commission has jurisdiction and powers to dispose of any investigation or hearing, including the following:

(1) The power to compel the attendance of witnesses.

(2) The power to depose witnesses.

(3) The power to order the production of documentary evidence.

Any commission member or any master may administer oaths and affirmations to witnesses in a matter under the jurisdiction of the commission.

Sec. 33. (a) A master may issue a subpoena for:

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before the masters. The master shall serve the subpoena in the manner provided by law.

(b) The chairman of the commission may issue a subpoena for:

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before the commission or in which masters have not been appointed. The chairman shall serve the subpoena in the manner provided by law.

Sec. 34. If a witness in a commission proceeding:

- (1) fails or refuses to attend upon subpoena; or**
- (2) refuses to testify or produce documentary evidence demanded by subpoena;**

a circuit court may enforce the subpoena.

Sec. 35. All papers and pleadings filed with the office of the chairman of the commission are considered filed with the commission.

Sec. 36. (a) In all formal proceedings, discovery is available to the commission and the judge under the Indiana Rules of Civil Procedure. A motion requesting a discovery order must be made to the circuit court in the county in which the commission hearing is held.

(b) In all formal proceedings, the counsel shall provide the following to the judge at least twenty (20) days before a hearing:

- (1) The names and addresses of all witnesses whose testimony the counsel expects to offer at the hearing.**
- (2) Copies of all written statements and transcripts of testimony of witnesses described in subdivision (1) that:**
 - (A) are in the possession of the counsel or the commission;**
 - (B) are relevant to the hearing; and**
 - (C) have not been provided to the judge.**

(3) Copies of all documentary evidence that the counsel expects to introduce at the hearing.

(c) On objection by a judge, the testimony of a witness whose name and address have not been furnished to the judge and documentary evidence that has not been furnished to the judge, are not admissible at a hearing.

(d) After formal proceedings have been instituted, a judge may request in writing that the counsel provide the judge the names and addresses of all witnesses known at any time to the counsel who have information that may be relevant to any charge against or any defense of the judge. The counsel shall provide copies of written statements, transcripts of testimony, and documentary evidence that:

- (1) are in the commission counsel's possession at any time;**
- (2) are relevant to a charge against or defense of the judge;**
- and**
- (3) have not been furnished to the judge.**

The counsel shall comply with the request not more than ten (10) days after receiving the request or not more than ten (10) days after any information or evidence becomes known to the counsel.

(e) During an investigation by the commission, a judge whose conduct is being investigated may demand in writing that the commission institute formal proceedings against the judge or enter a formal finding that there is not probable cause to believe the judge is guilty of misconduct. Not more than sixty (60) days after receiving a written demand, the commission shall comply with the demand. A copy of the demand shall be filed in the supreme court and is a matter of public record. If the commission finds there is not probable cause, the finding shall be filed in the supreme court and is a matter of public record.

SECTION 18. IC 33-39 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 39. PROSECUTING ATTORNEYS

Chapter 1. Bond, Duty to Prosecute, Special Prosecutors, and Pretrial Diversion

Sec. 1. (a) As used in this chapter, "senior prosecuting attorney" means a person who:

- (1) was employed for at least eight (8) years as a prosecuting attorney or chief deputy prosecuting attorney; and
- (2) files an affidavit requesting designation as a senior prosecuting attorney in the circuit court in a county in which the person is willing to serve as a senior prosecuting attorney.

(b) An affidavit filed under subsection (a) must contain the following:

- (1) The name of the person filing the affidavit.
- (2) The person's attorney number issued by the supreme court.
- (3) The length of time the person served as a chief deputy prosecuting attorney or prosecuting attorney.
- (4) The name of any county in which the person served as a chief deputy prosecuting attorney or prosecuting attorney.

(c) The circuit court shall promptly forward each affidavit received under this section to the prosecuting attorneys council of Indiana.

Sec. 2. (a) This section does not apply to a deputy prosecuting

attorney appointed by a prosecuting attorney or a special prosecutor appointed by a court.

(b) To be eligible to hold office as a prosecuting attorney, a person must be a resident of the judicial circuit that the person serves.

Sec. 3. A person elected to the office of prosecuting attorney, before entering upon the duties of the office, shall execute a bond in the manner prescribed by IC 5-4-1.

Sec. 4. (a) When a prosecuting attorney receives information of the commission of a felony or misdemeanor, the prosecuting attorney shall cause process to issue from a court (except the circuit court) having jurisdiction to issue the process to the proper officer, directing the officer to subpoena the persons named in the process who are likely to have information concerning the commission of the felony or misdemeanor. The prosecuting attorney shall examine a person subpoenaed before the court that issued the process concerning the offense.

(b) If the facts elicited under subsection (a) are sufficient to establish a reasonable presumption of guilt against the party charged, the court shall:

- (1) cause the testimony that amounts to a charge of a felony or misdemeanor to be reduced to writing and subscribed and sworn to by the witness; and
- (2) issue process for the apprehension of the accused, as in other cases.

Sec. 5. Except as provided in IC 12-15-23-6(d), the prosecuting attorneys, within their respective jurisdictions, shall:

- (1) conduct all prosecutions for felonies, misdemeanors, or infractions and all suits on forfeited recognizances;
- (2) superintend, on behalf of counties or any of the trust funds, all suits in which the the counties or trust funds may be interested or involved; and
- (3) perform all other duties required by law.

Sec. 6. (a) Special prosecutors may be appointed only under this section.

(b) A circuit or superior court judge:

- (1) shall appoint a special prosecutor if:
 - (A) any person other than the prosecuting attorney or the prosecuting attorney's deputy files a verified petition

- requesting the appointment of a special prosecutor; and
- (B) the prosecuting attorney agrees that a special prosecutor is needed;
- (2) may appoint a special prosecutor if:
 - (A) a person files a verified petition requesting the appointment of a special prosecutor; and
 - (B) the court, after:
 - (i) notice is given to the prosecuting attorney; and
 - (ii) an evidentiary hearing is conducted at which the prosecuting attorney is given an opportunity to be heard; finds by clear and convincing evidence that the appointment is necessary to avoid an actual conflict of interest or there is probable cause to believe that the prosecutor has committed a crime;
- (3) may appoint a special prosecutor if:
 - (A) the prosecuting attorney files a petition requesting the court to appoint a special prosecutor; and
 - (B) the court finds that the appointment is necessary to avoid the appearance of impropriety; and
- (4) may appoint a special prosecutor if:
 - (A) an elected public official, who is a defendant in a criminal proceeding, files a verified petition requesting a special prosecutor within ten (10) days after the date of the initial hearing; and
 - (B) the court finds that the appointment of a special prosecutor is in the best interests of justice.
- (c) Each person appointed to serve as a special prosecutor:
 - (1) must consent to the appointment; and
 - (2) must be:
 - (A) the prosecuting attorney or a deputy prosecuting attorney in a county other than the county in which the person is to serve as special prosecutor; or
 - (B) except as provided in subsection (d), a senior prosecuting attorney.
- (d) A senior prosecuting attorney may be appointed in the county in which the senior prosecuting attorney previously served if the court finds that an appointment under this subsection would not create the appearance of impropriety.
- (e) A person appointed to serve as a special prosecutor has the

same powers as the prosecuting attorney of the county. However, the appointing judge shall limit scope of the special prosecutor's duties to include only the investigation or prosecution of a particular case or particular grand jury investigation.

(f) The court shall establish the length of the special prosecutor's term. If the target of an investigation by the special prosecutor is a public servant (as defined in IC 35-41-1-24), the court shall order the special prosecutor to file a report of the investigation with the court at the conclusion of the investigation. The report is a public record.

(g) If the special prosecutor is not regularly employed as a full-time prosecuting attorney or full-time deputy prosecuting attorney, the compensation for the special prosecutor's services:

- (1) shall be paid to the special prosecutor from the unappropriated funds of the appointing county; and
- (2) may not exceed:
 - (A) a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit; and
 - (B) travel expenses and reasonable accommodation expenses actually incurred.

(h) If the special prosecutor is regularly employed as a full-time prosecuting attorney or deputy prosecuting attorney, the compensation for the special prosecutor's services:

- (1) shall be paid out of the appointing county's unappropriated funds to the treasurer of the county in which the special prosecutor regularly serves; and
- (2) must include a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit, travel expenses, and reasonable accommodation expenses actually incurred.

(i) The combination of:

- (1) the compensation paid to a senior prosecuting attorney under this chapter; and
 - (2) retirement benefits that the person appointed as a senior prosecuting attorney is receiving or entitled to receive;
- may not exceed the minimum compensation to which a full-time prosecuting attorney is entitled under IC 33-39-6-5.

(j) A senior prosecuting attorney appointed under this chapter may not be compensated as senior prosecuting attorney for more

than one hundred (100) calendar days in total during a calendar year.

Sec. 7. A person may not be appointed a senior prosecuting attorney under section 6 of this chapter if the person:

- (1) is not available for the minimum period of commitment for service as a special prosecutor; or
- (2) has had a disciplinary sanction imposed by the Indiana supreme court disciplinary commission or a similar body in another state that restricts the person's ability to practice law.

Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

- (1) holds a commercial driver's license; and
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) A prosecuting attorney may withhold prosecution against an accused person if:

- (1) the person is charged with a misdemeanor;
- (2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney; and
- (3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending.

(c) An agreement under subsection (b) may include conditions that the person:

- (1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1;
- (2) work faithfully at a suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment;
- (3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;
- (4) support the person's dependents and meet other family responsibilities;
- (5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;
- (6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a

witness;

(7) report to the prosecuting attorney at reasonable times;

(8) answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and

(9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

(d) An agreement under subsection (b)(2) may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

(e) The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

(f) All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-37-8.

(g) If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection (c)(6):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

Sec. 9. A prosecuting attorney who charges a person with committing any of the following shall inform the person's employer of the charge, unless the prosecuting attorney determines that the person charged does not work with children:

(1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(2) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

Chapter 2. Powers and Duties

Sec. 1. A prosecuting attorney or deputy prosecuting attorney

may:

- (1) take acknowledgments of deeds or other instruments in writing;
- (2) administer oaths;
- (3) protest notes and checks;
- (4) take the deposition of a witness;
- (5) take and certify affidavits and depositions; and
- (6) perform any duty now conferred upon a notary public by a statute.

An acknowledgment of a deed or another instrument taken by a prosecuting attorney or deputy prosecuting attorney may be recorded in the same manner as though a deed or another instrument were acknowledged before a notary public.

Sec. 2. A prosecuting attorney or deputy prosecuting attorney may not perform a duty set forth in section 1 of this chapter until the prosecuting attorney or deputy prosecuting attorney obtains a seal that stamps upon paper a distinct impression:

- (1) in words or letters sufficiently indicating the official character of the prosecuting attorney or deputy prosecuting attorney; and
- (2) that may include any other device chosen by the prosecuting attorney or deputy prosecuting attorney.

All acts not attested by a seal are void.

Sec. 3. A prosecuting attorney or deputy prosecuting attorney who performs any of the acts set forth in section 1 of this chapter shall, at the time of signing a certificate of acknowledgment of a deed, mortgage, other instrument, jurat, or other official document, append to the certificate a true statement of the date of the expiration of the commission of the prosecuting attorney or deputy prosecuting attorney. A prosecuting attorney or deputy prosecuting attorney has jurisdiction to perform the duties set forth in this chapter anywhere in Indiana.

Sec. 4. A prosecuting attorney or deputy prosecuting attorney who performs an act under this chapter is entitled to the same fees as those charged by notaries public. If an act committed by a notary public would be a violation of the law, the act is a violation of the law if committed by a prosecuting attorney or deputy prosecuting attorney in the performance of an act authorized under this chapter.

Sec. 5. A prosecuting attorney or a deputy prosecuting attorney may administer all oaths that are convenient and necessary to be administered in the discharge of their official duties. An oath under this section shall be administered without any charge or expense.

Chapter 3. Travel Expenses Reimbursed for Taking Depositions in Criminal Actions

Sec. 1. Except as provided in section 2 of this chapter and upon the order of a judge trying a criminal case, the county auditor shall pay to a prosecuting attorney, from funds in the county treasury not otherwise appropriated and as a part of the costs of the trial, an amount equal to the expenses necessarily incurred by a prosecuting attorney in traveling to attend the taking of any deposition in connection with the criminal action.

Sec. 2. If a prosecuting attorney incurred expenses described in section 1 of this chapter for a criminal case from another county being heard on a change of venue, the expenses shall be collected from the other county as other costs are collected in the case.

Sec. 3. The court shall provide a prosecuting attorney an allowance for reasonable expenses after the prosecuting attorney files with the clerk of the court an itemized and verified statement of expenses.

Chapter 4. Appointment of Investigators and Jurisdiction to Investigate

Sec. 1. (a) The prosecuting attorney of any judicial circuit of Indiana may appoint one (1) or more investigators with the approval of the county council or councils. An investigator appointed under this section:

- (1) works under the direction of the prosecuting attorney; and**
- (2) may conduct investigations and assist in collecting and assembling evidence that, in the judgment of the prosecuting attorney, may be necessary for the successful prosecution of any of the criminal offenders of the judicial circuit.**

(b) An investigator appointed under this section shall give bond in the sum of five thousand dollars (\$5,000) and has the same police powers within the county authorized by law to all police officers.

(c) In each judicial circuit the salary or other compensation to be paid an investigator appointed under this section shall be set by the county council or councils. A county council or councils may not reduce the number of investigators or compensation of any

investigator without approval of the prosecuting attorney.

Sec. 2. (a) If the place of trial for commission of an offense, as determined under IC 35-32-2-1, would potentially require a choice between or among counties, the coroner and law enforcement officers of the county where the offense is discovered have jurisdiction to investigate the offense.

(b) This section may be modified by agreement between or among the prosecuting attorneys of the counties involved.

Chapter 5. Assistance Procuring a Liquor License Prohibited

Sec. 1. A:

- (1)** prosecuting attorney;
- (2)** deputy prosecuting attorney; or
- (3)** judge of a city court;

who recklessly acts as attorney, agent, or counsel for an applicant in a proceeding to procure a license to retail or wholesale intoxicating liquors under IC 7.1, or aids or assists in any manner in the procuring of a license commits a Class B misdemeanor.

Chapter 6. Compensation of Prosecutors, Deputies, and Investigators

Sec. 1. (a) Prosecuting attorneys and deputy prosecuting attorneys are entitled to receive the compensation provided in this chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be paid in the manner prescribed in section 2 of this chapter.

(b) Upon the allowance of an itemized and verified claim by the board of county commissioners, the auditor of the county shall issue a warrant to a prosecuting attorney or deputy prosecuting attorney who filed the claim to pay any part of the compensation of a prosecuting attorney or a deputy prosecuting attorney that exceeds the amount that the state is to pay.

(c) A deputy prosecuting attorney who knowingly divides compensation with the prosecuting attorney or any other officer or person in connection with employment commits a Class B misdemeanor.

(d) A prosecuting attorney or any other officer or person who accepts any division of compensation described in subsection (c) commits a Class B misdemeanor.

(e) The attorney general shall call at least one (1) and not more

than two (2) conferences of the prosecuting attorneys, each year, to consider, discuss, and develop coordinated plans for the enforcement of the laws of Indiana. The date or dates upon which the conferences are held shall be fixed by the attorney general. The expenses necessarily incurred by a prosecuting attorney in attending a conference, including the actual expense of transportation to and from the place where the conference is held, together with meals and lodging, shall be paid from the general fund of the county upon the presentation of an itemized and verified claim, filed as required by law, and by warrant issued by the county auditor. If there is more than one (1) county in any judicial circuit, the expenses of the prosecuting attorneys incurred by virtue of this subsection shall be paid from the general fund of the respective counties constituting the circuit in the same proportion that the classification factor of each county bears to the classification factor of the judicial circuit as determined according to law by the state board of accounts.

Sec. 2. (a) A prosecuting attorney may appoint one (1) chief deputy prosecuting attorney. The maximum annual salary paid by the state of a chief deputy prosecuting attorney appointed under this subsection is as follows:

- (1) If the prosecuting attorney is a full-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.
- (2) If the prosecuting attorney is a full-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney serving the judicial district served by the chief deputy prosecuting attorney.
- (3) If the prosecuting attorney is a part-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.
- (4) If the prosecuting attorney is a part-time prosecuting

attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney.

(b) The prosecuting attorney in a county in which is located at least one (1) institution operated by the department of correction that houses at least one thousand five hundred (1,500) offenders may appoint two (2) additional deputy prosecuting attorneys. In a county having two (2) institutions, each of which houses at least one thousand five hundred (1,500) offenders, the prosecuting attorney may appoint a third deputy prosecuting attorney.

(c) The prosecuting attorney in a county in which is located an institution operated by the department of correction that houses at least one hundred (100) but less than one thousand five hundred (1,500) adult offenders may appoint one (1) additional deputy prosecuting attorney.

(d) The prosecuting attorney in a county in which is located a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients may appoint one (1) additional deputy prosecuting attorney.

(e) The annual salary of a deputy prosecuting attorney appointed under subsections (b) through (d) may not be less than seventy-five percent (75%) of the annual salary of the appointing prosecuting attorney, as determined under section 5 of this chapter as though the prosecuting attorney had not elected full-time status.

(f) The salaries provided in this section shall be paid by the state once every two (2) weeks from the state general fund. There is appropriated annually out of the general fund of the state sufficient funds to pay any amount necessary. However, the salaries fixed in this chapter are determined to be maximum salaries to be paid by the state. This chapter does not limit the power of counties comprising the respective judicial circuits to pay additional salaries upon proper action by the appropriate county officials.

(g) The various county councils shall appropriate annually for other deputy prosecuting attorneys, investigators, clerical assistance, witness fees, out-of-state travel, postage, telephone tolls and telegraph, repairs to equipment, office supplies, other operating expenses, and equipment an amount necessary for the proper discharge of the duties imposed by law upon the office of

the prosecuting attorney of each judicial circuit.

Sec. 3. For purposes of fixing the salaries of the various prosecuting attorneys under this chapter, each judicial circuit of the state is:

- (1) graded on the basis of population and gross assessed valuation; and
- (2) set up on the percentage ratio it bears to the state, the whole state being considered as one hundred percent (100%).

Sec. 4. (a) The nine (9) classes of the several judicial circuits of the state as set out in this chapter are based on a unit factor system. The factors are determined by the relations of the judicial circuit to the state as established and certified to each county auditor by the state board of accounts not later than June 20 of any calendar year. They are as follows:

- (1) Population.
- (2) Gross assessed valuation as shown by the last preceding gross assessed valuation as certified by the various counties to the auditor of the state in the calendar year in which the calculation is made.

(b) The factors for each of the nine (9) classes set out in this chapter shall be obtained as follows:

- (1) The population of each judicial circuit shall be divided by the population of the entire state.
- (2) The gross assessed valuation of each judicial circuit shall be divided by the gross assessed valuation of the entire state.
- (3) The two (2) results thus obtained shall be added together and the sum thus obtained for each judicial circuit shall be divided by two (2).
- (4) The final result so obtained, multiplied by one hundred (100), shall determine the classification of each judicial circuit according to the following schedule:

CLASSIFICATION FACTORS

	HIGH	LOW	CLASS
NO LIMIT		8.00	1
ALL UNDER	8.00	2.25	2
ALL UNDER	2.25	1.25	3
ALL UNDER	1.25	.85	4
ALL UNDER	.85	.70	5
ALL UNDER	.70	.60	6

ALL UNDER	.60	.50	7
ALL UNDER	.50	.35	8
ALL UNDER	.35	No limit	9

Sec. 5. (a) The annual minimum salary paid by the state to a full-time prosecuting attorney described in section 6 of this chapter is equal to the minimum salary of the circuit court judge of the same judicial circuit as the prosecuting attorney.

(b) A prosecuting attorney of a judicial circuit, other than a full-time prosecuting attorney described in section 6 of this chapter is entitled to a minimum annual salary in an amount equal to sixty percent (60%) of the salary provided in subsection (a), except as provided by subsection (c).

(c) A prosecuting attorney, other than a full-time prosecuting attorney described in section 6 of this chapter, of a judicial circuit:

(1) that has a population of less than eighty-five thousand (85,000) and that adjoins any county having a population of more than one hundred sixty thousand (160,000); or

(2) in which is located:

(A) the Indiana state prison, the Pendleton Correctional Facility, the Plainfield Correctional Facility, the Branchville Correctional Facility, the Wabash Valley Correctional Facility, or the Putnamville Correctional Facility; or

(B) a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients;

is entitled to a minimum annual salary in an amount equal to sixty-six percent (66%) of the salary provided in subsection (a).

(d) The state shall pay, from the state general fund, the minimum annual salary of a prosecuting attorney. The state shall pay the minimum annual salary in equal installments with payments being made once every two (2) weeks.

Sec. 6. (a) Except as provided in section 7 of this chapter, a prosecuting attorney may elect to devote the prosecuting attorney's full professional time to the duties of the office of prosecuting attorney by filing a written notice with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state. The election may be made annually during the prosecuting attorney's term. However, the notice of election must be made before June 30

of the applicable year. An election is effective for each successive year of the term unless it is revoked before June 30 of the year during which the prosecuting attorney wants to change the prosecuting attorney's status. However, only one (1) change in status may be made during the term. A revocation is made by the prosecuting attorney by filing a written notice with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state.

(b) A prosecuting attorney who elects to be a full-time prosecuting attorney:

(1) shall devote the prosecuting attorney's full professional time to the prosecuting attorney's office; and

(2) may not engage in the private practice of law.

(c) If a prosecuting attorney of a judicial circuit of the sixth through ninth class elects to become a full-time prosecuting attorney and the majority of the county council consents to the election, a copy of the consent must be filed with the notice of election to full-time status with the circuit court of the prosecuting attorney's judicial circuit and with the auditor of state.

Sec. 7. The prosecuting attorney of each judicial circuit of the second class within a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) shall devote the prosecuting attorney's full professional time to the duties of the prosecuting attorney's office. The prosecuting attorney may not engage in the private practice of law for the term for which the prosecuting attorney was elected or appointed, and the prosecuting attorney is entitled to a minimum annual salary that is not less than the salary of the judge of the circuit court of the same judicial circuit.

Sec. 8. (a) The compensation provided in this chapter for prosecuting attorneys and their deputies is in full for all services required by law. Prosecuting attorneys shall appear in all courts and in all cases where the law provides that they shall appear.

(b) Prosecuting attorneys, deputy prosecuting attorneys, and investigators are entitled to a sum for mileage for the miles necessarily traveled in the discharge of their duties. The sum for mileage provided by this subsection must:

(1) equal the sum per mile paid to state officers and employees, with the rate changing each time the state

government changes its rate per mile;

(2) be allowed by the board of county commissioners on a claim duly filed monthly by the prosecutor, deputy prosecuting attorneys, and investigators itemizing the specific mileage traveled; and

(3) be paid by the county in which the duty arose that necessitated the travel.

(c) This chapter does not prohibit the payment of other expenses as may be allowed by law.

(d) If a board of county commissioners does not furnish the prosecuting attorney with office space, the county council shall appropriate a reasonable amount of money per year to the prosecuting attorney for office space.

Sec. 9. The classification of salary schedules for prosecuting attorneys may not be lowered below the classification first fixed by the state board of accounts under IC 33-14-7 (before its repeal).

Chapter 7. Retirement Fund

Sec. 1. This chapter applies only to:

(1) an individual who serves as a prosecuting attorney or chief deputy prosecuting attorney on or after January 1, 1990; and

(2) a participant employed in a position described in section 8(a)(2) or 8(a)(3) of this chapter who serves in the position after June 30, 1995.

Sec. 2. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

Sec. 3. As used in this chapter, "board" refers to the board of trustees of the public employees' retirement fund.

Sec. 4. As used in this chapter, "fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the following year.

Sec. 5. As used in this chapter, "fund" refers to the prosecuting attorneys retirement fund established by this chapter.

Sec. 6. As used in this chapter, "participant" means a person serving in a position described in section 8 of this chapter who is participating in the fund.

Sec. 7. As used in this chapter, "salary" means the salary paid to a participant by the state, determined without regard to any salary reduction agreement established under Section 125 of the

Internal Revenue Code. The term does not include an amount paid to a participant by a county or counties.

Sec. 8. (a) As used in this chapter, "services" means the period beginning on the first day upon which a person first became:

- (1) a prosecuting attorney or chief deputy prosecuting attorney;**
- (2) any other deputy prosecuting attorney who is:**
 - (A) appointed under IC 33-39-6-2; and**
 - (B) paid by the state from the state general fund; or**
- (3) the executive director or the assistant executive director of the prosecuting attorneys council of Indiana;**

whether that date is before, on, or after January 1, 1990, and ending on the date under consideration, including all intervening employment in a position described in subdivisions (1) through (3). If an individual is elected or appointed to a position described in subdivisions (1) through (3) and serves one (1) or more terms or part of a term, then retires from office, but at a later period or periods is appointed or elected and serves in a position described in subdivisions (1) through (3), the individual shall pay into the fund during all the periods that the individual serves in that position, except as otherwise provided in this chapter, whether the periods are connected or disconnected.

(b) A senior prosecuting attorney appointed under IC 33-39-1 is not required to pay into the fund during any period of service as a senior prosecuting attorney.

Sec. 9. The prosecuting attorneys retirement fund is established. The fund consists of the following:

- (1) Each participant's contributions to the fund.**
- (2) All gifts, grants, devises, and bequests in money, property, or other form made to the fund.**
- (3) All interest on investments or on deposits of the funds.**
- (4) A contribution or payment to the fund made in a manner provided by the general assembly.**

Sec. 10. The fund shall be construed to be a trust, separate and distinct from all other entities, maintained to:

- (1) secure payment of benefits to the participants and their beneficiaries; and**
- (2) pay the costs of administering this chapter.**

Sec. 11. (a) The board shall administer the fund, which may be

commingled with the public employees' retirement fund for investment purposes.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits under this chapter.

(2) In accordance with the powers and duties granted the board in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter.

(c) A determination by the board may be appealed under IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board;

(2) the treasurer of state;

(3) the attorney general; and

(4) the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

Sec. 12. (a) Except as provided in subsection (b), each participant shall make contributions to the fund as follows:

(1) A participant described in section 8(a)(1) of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after December 31, 1989.

(2) A participant described in section 8(a)(2) or 8(a)(3) of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after June 30, 1994.

A participant's contributions shall be deducted from the participant's monthly salary by the auditor of state and credited to the fund.

(b) The state may pay the contributions for a participant.

Sec. 13. (a) A participant who:

(1) ceases service in a position described in section 8 of this chapter, other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter; is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date upon which the withdrawal begins may not be before the date of final

termination of employment or the date thirty (30) days before the receipt of the application by the board. Upon withdrawal the participant is entitled to receive the total sum contributed plus interest at the rate of five and one-half percent (5.5%) compounded annually, payable not later than sixty (60) days from the date of the withdrawal application.

(b) Notwithstanding section 8 of this chapter, a participant who withdraws from the fund under subsection (a) and becomes a participant again at a later date is not entitled to service credit for years of service before the withdrawal.

Sec. 14. (a) Interest shall be credited annually on June 30 at the rate of five and one-half percent (5.5%) on all amounts credited to the member as of June 30 of the preceding year.

(b) Contributions begin to accumulate interest at the beginning of the fiscal year after the year in which the contributions are due.

(c) When a member retires or withdraws, a proportional interest credit determined under this chapter shall be paid for the period elapsed since the last date on which interest was credited.

Sec. 15. A participant whose employment in a position described in section 8 of this chapter is terminated is entitled to a retirement benefit computed under section 16 or 18 of this chapter, beginning on the date specified by the participant in a written application, if all of the following conditions are met:

(1) The application for retirement benefits and the choice of the retirement date is filed on a form provided by the board and the retirement date is:

(A) after the cessation of the participant's service;

(B) on the first day of a month; and

(C) not more than six (6) months before the date the application is received by the board.

However, if the board determines that a participant is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the participant became incompetent.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least ten (10) years of service credit; or

(B) meets the requirements for disability benefits under section 17 of this chapter.

(3) The participant is not receiving and is not entitled to receive any salary for services currently performed, except for services rendered as a senior prosecuting attorney under IC 33-39-1.

Sec. 16. (a) This section does not apply to a participant who meets the requirements for disability benefits under section 17 of this chapter.

(b) Except as provided in subsections (c) and (d), the amount of the annual retirement benefit to which a participant who applies for a retirement benefit and who is at least sixty-five (65) years of age is entitled equals the product of:

(1) the highest annual salary that was paid to the participant before separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 10	0
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

(c) If a participant who applies for a retirement benefit is not at least sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

(d) Benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the

participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

(e) If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at the rate of five and one-half percent (5.5%) compounded annually.

Sec. 17. (a) Except as provided in subsection (b), a participant who becomes disabled while in active service in a position described in section 8 of this chapter may retire for the duration of the disability if:

- (1) the participant has at least five (5) years of creditable service;
- (2) the participant has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and
- (3) at least once each year until the participant becomes sixty-five (65) years of age a representative of the board verifies the continued disability.

For purposes of this section, a participant who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if the participant furnishes proof of the qualification to the board.

(b) Benefits may not be provided under this chapter for any disability that:

- (1) results from an intentionally self-inflicted injury or attempted suicide while sane or insane;
- (2) results from the participant's commission or attempted commission of a felony; or
- (3) begins within two (2) years after a participant's entry or reentry into active service in a position described in section 8 of this chapter and was caused or contributed to by a mental or physical condition that manifested itself before the participant entered or reentered active service.

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated to prove that an individual is qualified for disability benefits under this section shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

Sec. 18. (a) Except as provided in subsection (b), the amount of the annual benefit payable to a participant who meets the requirements for disability benefits under section 17 of this chapter is equal to the product of:

- (1) the annual salary that was paid to the participant at the time of separation from service; multiplied by
- (2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 5	0
5-10	40%
11	41%
12	42%
13	43%
14	44%
15	45%
16	46%
17	47%
18	48%
19	49%
20 or more	50%

(b) Benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

Sec. 19. (a) The surviving spouse of a participant who:

- (1) dies; and
- (2) on the date of death:
 - (A) was receiving benefits under this chapter;
 - (B) had completed at least ten (10) years of service in a position described in section 8 of this chapter; or
 - (C) met the requirements for disability benefits under section 17 of this chapter;

is entitled, regardless of the participant's age, to the benefit

prescribed by subsection (b).

(b) The surviving spouse is entitled to a benefit for life equal to the greater of:

(1) seven thousand dollars (\$7,000); or

(2) fifty percent (50%) of the amount of retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 16(c) of this chapter.

(c) Benefits payable to a surviving spouse under this section are reduced by the amounts, if any, that are payable to the surviving spouse from the public employees' retirement fund as a result of the participant's death.

Sec. 20. (a) If a participant's spouse does not survive the participant, the dependent child of a participant is, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section 19 of this chapter.

(b) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, that dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section 19 of this chapter.

(c) If there is more than one (1) dependent child, the dependent children are entitled to share the benefit equally.

(d) Each dependent child is entitled to receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(e) Benefits payable to a dependent child are reduced by the amounts, if any, that are payable to the dependent child from the public employees' retirement fund.

Sec. 21. (a) If benefits are not payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board by the survivors or the participant's estate, the total of the participant's contributions plus interest at the rate of five and one-half percent (5.5%) compounded annually, minus any payments made to the participant, shall be paid to:

- (1) the surviving spouse of the participant;**
- (2) any dependent or dependents of the participant, if a spouse does not survive; or**
- (3) the participant's estate, if a spouse or dependent does not survive.**

(b) The amount owed a spouse, dependent or dependents, or estate under subsection (a) is payable not later than sixty (60) days after the date of receipt of the withdrawal application.

Sec. 22. The fund shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code as applicable to the fund. In order to meet those requirements, the fund is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The board shall distribute the corpus and income of the fund to participants and their beneficiaries in accordance with this chapter.

(2) A part of the corpus or income of the fund may not be used for or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment or death, or for any other reason, may not be applied to increase the benefits a participant would otherwise receive under the retirement fund law.

(4) If the fund is terminated, or if all contributions to the fund are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the fund is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination for purposes of determining any benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to

beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participant's beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefits specified by Section 415 of the Internal Revenue Code. If a participant's benefits under this chapter would exceed that maximum benefit, the benefit payable under this chapter shall be reduced as necessary.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

Sec. 23. (a) For purposes of this chapter, the following amounts are appropriated for each biennium:

(1) From the state general fund, the amount required to actuarially fund participants' retirement benefits, as determined by the board on recommendation of an actuary.

(2) From the fund, the amount required for administration purposes.

(b) The biennial appropriations provided in this section shall be credited to the board annually in equal installments in the month of July of each year of the biennium.

Sec. 24. Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

Sec. 25. (a) Notwithstanding any other provision of this chapter,

the fund must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies for the benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act, but is not entitled to receive credit for service for benefit purposes.

(b) Notwithstanding any other provision of this chapter, a participant is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

Chapter 8. Prosecuting Attorneys Council

Sec. 1. As used in this chapter, "council" refers to the prosecuting attorneys council of Indiana established by section 2 of this chapter.

Sec. 2. (a) The prosecuting attorneys council of Indiana is established.

(b) The membership of the council consists of all the prosecuting attorneys and their chief deputies acting in Indiana.

Sec. 3. The activities of the council shall be directed by a ten (10) member board of directors elected by the entire membership of the council.

Sec. 4. The council may employ an executive director, staff, and clerical assistants necessary to fulfill the purposes of the council.

Sec. 5. The council shall do the following:

- (1) Assist in the coordination of the duties of the prosecuting attorneys of the state and their staffs.
- (2) Prepare manuals of procedure.
- (3) Give assistance in preparation of the trial briefs, forms, and instructions.
- (4) Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs.
- (5) Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in Indiana.

Sec. 6. (a) The drug prosecution fund is established. The council shall administer the fund. Expenditures from the fund may be made only in accordance with appropriations made by the general

assembly.

(b) The council may use money from the fund to provide assistance to prosecuting attorneys to:

- (1) investigate and prosecute violations of IC 35-48;
- (2) bring actions for forfeiture, law enforcement costs, and correction costs under IC 34-24-1;
- (3) bring actions for civil and criminal remedies for a violation of IC 35-45-6; and
- (4) obtain training, equipment, and technical assistance that would enhance the ability of prosecuting attorneys to reduce illegal drug activity.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund.

Chapter 9. Defense and Indemnification of Prosecutors

Sec. 1. This chapter does not apply to a threatened, pending, or completed action or a proceeding that:

- (1) results in the criminal conviction of; or
- (2) is a disciplinary action or proceeding against;

a prosecuting attorney.

Sec. 2. As used in this chapter, "expenses" includes the following:

- (1) Reasonable attorney's fees, if the attorney general has authorized the prosecuting attorney to hire private counsel to provide the defense.
- (2) A judgment.
- (3) A settlement.
- (4) Court costs.
- (5) Discovery costs.
- (6) Expert witness fees.
- (7) Any other expense incurred as a result of an action or a proceeding.

Sec. 3. As used in the chapter, "prosecuting attorney" means a prosecuting attorney, a deputy prosecuting attorney, or a senior prosecuting attorney appointed under IC 33-39-1.

Sec. 4. The state shall pay the expenses incurred by a prosecuting attorney from a threatened, pending, or completed

action or proceeding that arises from:

- (1) making;**
- (2) performing; or**
- (3) failing to make or perform;**

a decision, a duty, an obligation, a privilege, or a responsibility of the prosecuting attorney's office.

SECTION 19. IC 33-40 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 40. PUBLIC DEFENDERS

Chapter 1. State Public Defender

Sec. 1. (a) The office of state public defender is established.

(b) The state public defender shall be appointed by the supreme court, to serve at the pleasure of the court, for a term of four (4) years.

(c) The state public defender must be:

- (1) a resident of Indiana; and**
- (2) a practicing attorney in Indiana for at least three (3) years.**

(d) The supreme court may give any tests it considers proper to determine the fitness of an applicant for appointment.

Sec. 2. (a) The state public defender shall represent a person who is:

- (1) confined in a penal facility in Indiana or committed to the department of correction due to a criminal conviction or delinquency adjudication; and**
- (2) financially unable to employ counsel;**

in a postconviction proceeding testing the legality of the person's conviction, commitment, or confinement, if the time for appeal has expired.

(b) The state public defender shall also represent a person who is committed to the department of correction due to a criminal conviction or delinquency adjudication, and who is financially unable to employ counsel, in proceedings before the department of correction or parole board, if the right to legal representation is established by law.

(c) This section does not require the state public defender to pursue a claim or defense that is not warranted under law and cannot be supported by a good faith argument for an extension, a modification, or a reversal of law, or that for any other reason is

without merit.

(d) This section does not prohibit an offender from proceeding on the offender's own behalf or otherwise refusing the services of the state public defender.

Sec. 3. (a) The state public defender shall be provided with a seal of office on which appear the words "Public Defender, State of Indiana".

(b) The state public defender may:

(1) take acknowledgments;

(2) administer oaths; and

(3) do all other acts authorized by law for a notary public.

An act performed under this section must be attested by the public defender's official seal.

Sec. 4. (a) The state public defender shall be paid an annual salary to be fixed by the supreme court.

(b) The state public defender may, with the consent of the supreme court, appoint or employ, at compensation to be fixed by the supreme court, the deputies, stenographers, or other clerical help that may be required to discharge the public defender's duties.

(c) The state public defender shall be provided with an office at a place to be located and designated by the supreme court.

(d) The state public defender shall be paid the state public defender's actual necessary and reasonable traveling expenses, including cost of food and lodging when away from the municipality in which the public defender's office is located and while on business of the office of the public defender.

(e) The state public defender shall be provided with:

(1) office furniture, fixtures, and equipment; and

(2) books, stationery, printing services, postage, and supplies.

Sec. 5. The state public defender may order on behalf of a prisoner the public defender represents a transcript of any court proceeding, including evidence presented, had against the prisoner, and depositions, if necessary, at the expense of the state. However, the public defender may stipulate as to the facts contained in the record of any court, or as to the substance of testimony presented or evidence heard involving any issue to be presented on behalf of the prisoner, without the testimony or evidence being fully transcribed.

Sec. 6. All claims for salary or other expenses authorized by this

chapter shall be allowed and approved by the supreme court. There is appropriated annually out of funds of the state not otherwise appropriated a sufficient amount to pay salaries and expenses authorized by this chapter.

Chapter 2. Public Defenders

Sec. 1. (a) Upon a determination by the judge of any court having criminal jurisdiction that:

(1) the court is unable within a reasonable time to appoint an available attorney, public defender or otherwise, who is competent in the practice of law in criminal cases as legal counsel for any person charged in the court with a criminal offense and who does not have sufficient means to employ an attorney; or

(2) in the interest of justice an attorney from another judicial circuit, not regularly practicing in the court, should be appointed to defend the indigent defendant or appeal the defendant's case, but the judge is unable within a reasonable time to provide for the direct appointment of an attorney;

the judge may make written request to the state public defender to provide a qualified attorney for the defense of the indigent person.

(b) The judge shall attach to the written request a copy of the affidavit or indictment, and state in the request the amount of the applicable minimum fee to be paid for the legal services of defense counsel in the case, subject to:

(1) any additional amount reasonable under all the circumstances of the case, to be determined and approved by the judge upon the final determination of the case; and

(2) reasonable partial allowances as may be approved and ordered by the judge pending final determination.

Sec. 2. Upon receiving a written request under section 1 of this chapter, the state public defender shall:

(1) accept appointment himself or herself;

(2) appoint any of the state public defender's deputies; or

(3) appoint any practicing attorney:

(A) admitted to the practice of law in Indiana; and

(B) who is competent to practice law in criminal cases;

subject to the concurring appointment, of record, by the requesting judge.

Sec. 3. (a) The state public defender shall prepare and maintain

a schedule of minimum attorney's fees for all general classifications of criminal trials, and proceedings on plea of guilty, subject to the approval of the supreme court. The schedule shall be furnished upon request to all criminal courts. A fee approved by any court for the services of:

- (1) the state public defender;
- (2) the state public defender's deputy; or
- (3) any attorney appointed by the state public defender and the judge under a request made to the state public defender;

may not be less than the approved minimum fee provided in the schedule.

(b) In cases where there has been a change of venue, the presiding judge may not approve a fee for a public defender from the office of the state public defender that exceeds one hundred twenty-five percent (125%) of the minimum fee schedule established under this chapter.

Sec. 4. All fees for services rendered by the state public defender or any of the state public defender's deputies under this chapter shall be paid directly to the state treasurer, to be expended for any necessary expenses of the office of the state public defender, including salaries of the necessary deputies, in addition to the state general funds otherwise appropriated by the general assembly for the payment of the expenses.

Sec. 5. The judge of a court having criminal jurisdiction shall make all orders necessary to mandate payment of fees approved by the presiding judge for payment for legal services rendered for indigent defendants in any cause in:

- (1) the court; or
- (2) another court following change of venue from the court;

whether or not the legal services are arranged under this chapter or by direct appointment of counsel in the first instance by the judge.

Sec. 6. (a) A public defender may use a public defender investigator who is qualified under subsection (b) to assist the public defender in preparing for the criminal defense of indigent persons.

(b) To practice as a public defender investigator, an individual must:

- (1) be at least twenty-one (21) years of age; and

(2) not have a conviction for a crime that has a direct bearing on the individual's ability to competently perform the duties of a public defender investigator.

(c) A public defender investigator may not perform any duties for the public defender that constitute the unauthorized practice of law.

Chapter 3. Supplemental Funding for Public Defender Services

Sec. 1. A supplemental public defender services fund is established in each county. The fund consists of amounts deposited under section 9 of this chapter.

Sec. 2. The fiscal body of the county shall appropriate money from the fund to supplement and provide court appointed legal services to qualified defendants.

Sec. 3. The supplemental public defender services fund may be used only to supplement the provision for court appointed legal services and may not be used to replace other funding of court appointed legal services.

Sec. 4. Any money remaining in the fund at the end of the calendar year does not revert to any other fund but continues in the supplemental public defender services fund.

Sec. 5. A county may not have more than one (1) program providing court appointed legal services in the county, unless the fiscal body of the county agrees to allow additional court appointed legal services programs in the county.

Sec. 6. (a) If at any stage of a prosecution for a felony or a misdemeanor the court makes a finding of ability to pay the costs of representation under section 7 of this chapter, the court shall require payment by the person or the person's parent, if the person is a child alleged to be a delinquent child, of the following costs in addition to other costs assessed against the person:

(1) Reasonable attorney's fees if an attorney has been appointed for the person by the court.

(2) Costs incurred by the county as a result of court appointed legal services rendered to the person.

(b) The clerk of the court shall deposit costs collected under this section into the supplemental public defender services fund established under section 1 of this chapter.

(c) A person ordered to pay any part of the costs of representation under subsection (a) has the same rights and

protections as those of other judgment debtors under the Constitution of the State of Indiana and under Indiana law.

(d) The sum of:

- (1) the fee collected under IC 35-33-7-6;
- (2) any amount assessed by the court under this section; and
- (3) any amount ordered to be paid under IC 33-37-2-3;

may not exceed the cost of defense services rendered to the person.

Sec. 7. (a) If a defendant or a child alleged to be a delinquent child is receiving publicly paid representation, the court shall consider:

- (1) the person's independently held assets and assets available to the spouse of the person or the person's parent if the person is unemancipated;
- (2) the person's income;
- (3) the person's liabilities; and
- (4) the extent of the burden that payment of costs assessed under section 6 of this chapter would impose on the person and the dependents of the person.

(b) If, after considering the factors described in subsection (a), the court determines that the person is able to pay the costs of representation, the court shall enter a finding that the person is able to pay those additional costs.

Sec. 8. An order for costs assessed under section 6 of this chapter is a civil judgment subject to the exemptions allowed debtors under IC 34-55-10-2. At any time after entry of the order, the defendant may petition the court that has entered the order for relief from payment. The court may release the defendant from payment of all or a part of the payment required by the order if the court finds that payment would impose a hardship upon the defendant or dependents of the defendant.

Sec. 9. Fees assessed under section 6 of this chapter shall be collected by the program providing court appointed legal services in the county. These fees shall be deposited in the supplemental public defender services fund established under section 1 of this chapter.

Sec. 10. (a) In a county with a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000) in which a county public defender service is not provided, a supplemental public defender services fund must be established

in each city for providing funding for a public defender to represent indigent defendants in a city court.

(b) Sections 2 through 9 of this chapter apply to the locally established supplemental public defender services fund established under subsection (a). However, funds otherwise required to be delivered to the county fiscal officer for maintaining a supplemental public defender services fund under this chapter shall be deposited with the local fiscal officer.

Chapter 4. Public Defender Council

Sec. 1. As used in this chapter, "council" refers to the public defender council of Indiana established by section 2 of this chapter.

Sec. 2. (a) There is established a public defender council of Indiana.

(b) The council's membership consists of all:

- (1) public defenders;
- (2) contractual pauper counsel; and
- (3) other court appointed attorneys regularly appointed to represent indigent defendants.

Sec. 3. The activities of the council shall be directed by an eleven (11) member board of directors, ten (10) of whom shall be elected by the entire membership of the council, and the state public defender.

Sec. 4. The council may employ an executive director, staff, and clerical personnel as necessary to carry out the council's purposes.

Sec. 5. The council shall:

- (1) assist in the coordination of the duties of the attorneys engaged in the defense of indigents at public expense;
- (2) prepare manuals of procedure;
- (3) assist in the preparation of trial briefs, forms, and instructions;
- (4) conduct research and studies of interest or value to all such attorneys; and
- (5) maintain liaison contact with study commissions, organizations, and agencies of all branches of local, state, and federal government that will benefit criminal defense as part of the fair administration of justice in Indiana.

Chapter 5. Public Defender Commission

Sec. 1. As used in this chapter, "commission" refers to the Indiana public defender commission established by section 2 of this

chapter.

Sec. 2. (a) The Indiana public defender commission is established.

(b) The commission is composed of the following eleven (11) members, none of whom may be a law enforcement officer or a court employee:

(1) Three (3) members appointed by the governor, with not more than two (2) of these individuals belonging to the same political party.

(2) Three (3) members appointed by the chief justice of the supreme court, with not more than two (2) of these individuals belonging to the same political party.

(3) One (1) member appointed by the board of trustees of the Indiana criminal justice institute, who is an attorney admitted to practice law in Indiana.

(4) Two (2) members of the house of representatives to be appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be from the same political party.

(5) Two (2) members of the senate, to be appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be from the same political party.

Sec. 3. (a) The members of the commission shall designate one (1) member of the commission as chairperson.

(b) The term of office of each member of the commission is four (4) years. A vacancy occurring among the members of the commission before the expiration of a term shall be filled in the same manner as the original appointment. An appointment to fill a vacancy occurring before the expiration of a term is for the remainder of the unexpired term.

(c) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(d) A member of the commission who is not a state employee is entitled to:

(1) the minimum salary per diem provided by IC 4-10-11-2.1(b); and

(2) reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) The commission shall meet at least quarterly and at times called by the chairperson or at the request of three (3) commission members.

Sec. 4. The commission shall do the following:

(1) Make recommendations to the supreme court concerning standards for indigent defense services provided for defendants against whom the state has sought the death sentence under IC 35-50-2-9, including the following:

(A) Determining indigency and eligibility for legal representation.

(B) Selection and qualifications of attorneys to represent indigent defendants at public expense.

(C) Determining conflicts of interest.

(D) Investigative, clerical, and other support services necessary to provide adequate legal representation.

(2) Adopt guidelines and standards for indigent defense services under which the counties will be eligible for reimbursement under IC 33-40-6, including the following:

(A) Determining indigency and the eligibility for legal representation.

(B) The issuance and enforcement of orders requiring the defendant to pay for the costs of court appointed legal representation under IC 33-40-3.

(C) The use and expenditure of funds in the county supplemental public defender services fund established under IC 33-40-3-1.

(D) Qualifications of attorneys to represent indigent defendants at public expense.

(E) Compensation rates for salaried, contractual, and assigned counsel.

(F) Minimum and maximum caseloads of public defender offices and contract attorneys.

(3) Make recommendations concerning the delivery of indigent defense services in Indiana.

(4) Make an annual report to the governor, the general assembly, and the supreme court on the operation of the public defense fund.

The report to the general assembly under subdivision (4) must be in an electronic format under IC 5-14-6.

Sec. 5. The division of state court administration of the supreme court shall provide general staff support to the commission. The division of state court administration may enter into contracts for any additional staff support that the division determines is necessary to implement this section.

Chapter 6. Public Defense Fund

Sec. 1. The public defense fund is established to receive court costs or other revenues for county reimbursement and administrative expenses. The fund shall be administered by the division of state court administration of the supreme court.

Sec. 2. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

Sec. 3. Money in the fund at the end of a fiscal year does not revert to the state general fund.

Sec. 4. (a) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the public defense fund for an amount equal to fifty percent (50%) of the county's expenditures for indigent defense services provided to a defendant against whom the death sentence is sought under IC 35-50-2-9.

(b) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the public defense fund for an amount equal to forty percent (40%) of the county's expenditures for indigent defense services provided in all noncapital cases except misdemeanors.

(c) A request under this section from a county described in IC 33-40-7-1(3) may be limited to expenditures for indigent defense services provided by a particular division of a court.

Sec. 5. (a) Except as provided under section 6 of this chapter, upon certification by a county auditor and a determination by the public defender commission that the request is in compliance with

the guidelines and standards set by the commission, the commission shall quarterly authorize an amount of reimbursement due the county:

(1) that is equal to fifty percent (50%) of the county's certified expenditures for indigent defense services provided for a defendant against whom the death sentence is sought under IC 35-50-2-9; and

(2) that is equal to forty percent (40%) of the county's certified expenditures for defense services provided in noncapital cases except misdemeanors.

The division of state court administration shall then certify to the auditor of state the amount of reimbursement owed to a county under this chapter.

(b) Upon receiving certification from the division of state court administration, the auditor of state shall issue a warrant to the treasurer of state for disbursement to the county of the amount certified.

Sec. 6. (a) If the public defense fund would be reduced below two hundred fifty thousand dollars (\$250,000) by payment in full of all county reimbursement for net expenditures in noncapital cases that is certified by the division of state court administration in any quarter, the public defender commission shall suspend payment of reimbursement to counties in noncapital cases until the next semiannual deposit in the public defense fund. At the end of the suspension period, the division of state court administration shall certify all suspended reimbursement.

(b) If the public defense fund would be reduced below two hundred fifty thousand dollars (\$250,000) by payment in full of all suspended reimbursement in noncapital cases, the amount certified by the division of state court administration for each county entitled to reimbursement shall be prorated.

Chapter 7. County Public Defender Boards

Sec. 1. This chapter does not apply to a county that:

(1) contains a consolidated city;

(2) has a population of:

(A) more than three hundred thousand (300,000) but less than four hundred thousand (400,000);

(B) more than two hundred thousand (200,000) but less than three hundred thousand (300,000); or

- (C) more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000); or
- (3) has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), except as provided in sections 5 and 11 of this chapter.

Sec. 2. As used in this chapter, "board" refers to a board established in an ordinance under section 3 of this chapter.

Sec. 3. (a) A county executive may adopt an ordinance establishing a county public defender board consisting of three (3) members. The county executive shall appoint one (1) member. The judges who exercise felony or juvenile jurisdiction in the county shall appoint by majority vote the other two (2) members.

(b) The members appointed by the judges may not be from the same political party. The members must be persons who have demonstrated an interest in high quality legal representation for indigent persons. However, a member may not be a city, town, or county attorney, a law enforcement officer, a judge, or a court employee.

(c) Each member of the board serves a three (3) year term beginning with the date of the member's appointment. A member appointed to fill a vacancy holds office for the remainder of the previous member's term. If a successor has not been appointed by the end of a member's three (3) year term, the member continues in office until the member's successor takes office.

(d) The members shall, by a majority vote, elect one (1) member to serve as chairperson.

(e) Meetings shall be held at least quarterly and may be held at other times during the year at the call of the:

- (1) chairperson; or
- (2) other two (2) members.

(f) A county executive may terminate the board by giving at least ninety (90) days written notice to the judges described in subsection (a).

Sec. 4. A member is entitled to reimbursement from the county for traveling expenses and other expenses actually incurred in connection with the member's duties to the same extent as is provided to a state employee for traveling expenses and other expenses under the state travel policies and procedures established by the Indiana department of administration and approved by the

budget agency.

Sec. 5. (a) The board shall prepare a comprehensive plan that must include at least one (1) of the following methods of providing legal defense services to indigent persons:

- (1)** Establishing a county public defender's office.
- (2)** Contracting with an attorney, a group of attorneys, or a private organization.
- (3)** Using an assigned counsel system of panel attorneys for case by case appointments under section 9 of this chapter.
- (4)** In a county described in section 1(3) of this chapter, establishing a public defender's office for the criminal division of the superior court.

(b) The plan prepared under subsection (a) shall be submitted to the Indiana public defender commission.

Sec. 6. (a) If a county public defender's office is established under this chapter, the board shall do the following:

- (1)** Recommend to the county fiscal body an annual operating budget for the county public defender's office.
- (2)** Appoint a county public defender.
- (3)** Submit an annual report to the county executive, the county fiscal body, and the judges described in section 3 of this chapter regarding the operation of the county public defender's office, including information relating to caseloads and expenditures.

(b) A county public defender shall be appointed for a term not to exceed four (4) years and may be reappointed. The county public defender may be removed from office only upon a showing of good cause. An attorney must be admitted to the practice of law in Indiana for at least two (2) years before the attorney is eligible for appointment as a county public defender.

Sec. 7. A county public defender shall do the following:

- (1)** Maintain an office as approved by the board.
- (2)** Hire and supervise staff necessary to perform the services of the office after the staff positions are recommended by the board and approved by the county executive and the fiscal body.
- (3)** Keep and maintain records of all cases handled by the office and report at least annually to the board and the Indiana public defender commission concerning the operation

of the office, costs, and projected needs.

Sec. 8. (a) A county public defender may contract with an attorney, a group of attorneys, or a private organization to provide legal representation under this chapter.

(b) The board shall establish the provisions of the contract under this section.

(c) The county fiscal body shall appropriate an amount sufficient to meet the obligations of the contract.

Sec. 9. The board may establish an assigned counsel system of panel attorneys to provide legal representation under this chapter that shall operate as follows:

(1) The board shall gather and maintain a list of attorneys qualified to represent indigent defendants.

(2) Upon the determination by a court that a person is indigent and entitled to legal representation at public expense, the court shall appoint an attorney to provide the representation from the list maintained by the board.

(3) An attorney appointed to provide representation under this section may request authorization from the judge hearing the case for expenditures for investigative services, expert witnesses, or other services necessary to provide adequate legal representation.

(4) An attorney appointed to provide representation under this section is entitled to receive compensation and reimbursement for budgeted expenses by submitting a voucher to the court. Upon approval of the voucher by the appropriate judge, the voucher shall be presented to the county auditor who shall process the claim as other claims against county funds are processed.

(5) An attorney appointed to provide representation under this section shall, upon completion of representation, report to the board information regarding the case disposition.

Sec. 10. (a) This chapter does not prevent a court from appointing counsel other than counsel provided for under the board's plan for providing defense services to an indigent person when the interests of justice require. A court may also appoint counsel to assist counsel provided for under the board's plan as co-counsel when the interests of justice require. Expenditures by a county for defense services not provided under the county public

defender board's plan are not subject to reimbursement from the public defense fund under IC 33-40-6.

(b) A judge of a court having criminal jurisdiction may make a written request to the state public defender to provide a qualified attorney for the defense of a person charged in the court with a criminal offense and eligible for representation at public expense if the judge determines:

- (1) that an attorney provided under the county public defender board's plan is not qualified or available to represent the person; or
- (2) that in the interests of justice an attorney other than the attorney provided for by the county defender board's plan should be appointed.

The judge shall attach to the request a copy of the information or indictment. Expenditures for representation under this subsection shall be paid by the county according to a fee schedule approved by the commission. These expenditures are eligible for reimbursement from the public defense fund.

Sec. 11. (a) A county public defender board shall submit a written request for reimbursement to the county auditor. The request must set forth the total of the county's expenditures for indigent defense services to the county auditor and may be limited in a county described in section 1(3) of this chapter to expenditures for indigent defense services provided by a particular division of a court. The county auditor shall review the request and certify the total of the county's expenditures for indigent defense services to the Indiana public defender commission.

(b) Upon certification by the Indiana public defender commission that the county's indigent defense services meet the commission's standards, the auditor of state shall issue a warrant to the treasurer of state for disbursement to the county of a sum equal to forty percent (40%) of the county's certified expenditures for indigent defense services provided in noncapital cases except misdemeanors.

(c) If a county's indigent defense services fail to meet the standards adopted by the Indiana public defender commission, the public defender commission shall notify the county public defender board and the county fiscal body of the failure to comply with the Indiana public defender commission's standards. Unless the county

public defender board corrects the deficiencies to comply with the standards not more than ninety (90) days after the date of the notice, the county's eligibility for reimbursement from the public defense fund terminates at the close of that fiscal year.

Sec. 12. A county public defender, a contract attorney, or counsel appointed by the court to provide legal defense services to indigent persons may not be a partner or an employee at the same law firm that employs the county's prosecuting attorney or a deputy prosecuting attorney in a private capacity.

Chapter 8. Miscellaneous Legal Services for Indigents in Criminal Actions

Sec. 1. The judge of any court having criminal jurisdiction, except in those counties with a population of at least four hundred thousand (400,000), may contract with any attorney or group of attorneys admitted to practice law in Indiana to provide legal counsel for all or some of the poor persons coming before the court charged with the commission of a crime and not having sufficient means to employ an attorney to defend themselves.

Sec. 2. A judge shall establish the fee to be paid to an attorney or attorneys for providing service to poor people.

Sec. 3. A contract entered into under section 1 of this chapter may be from year to year or for any length of time determined by the judge.

Sec. 4. The county council of every county where the judge of any court having criminal jurisdiction has contracted with an attorney for legal services to the poor shall appropriate an amount sufficient to meet the contract obligations of a court or courts for services to the poor.

Sec. 5. An indigent person desiring to appeal to the supreme court or the court of appeals the decision of a circuit court or criminal court in criminal cases, and not having sufficient means to procure the longhand manuscript or transcript of the evidence taken in shorthand, by the order or permission of any court, the court shall direct the shorthand reporter to transcribe the shorthand notes of evidence into longhand, as soon as practicable, and deliver the longhand manuscript or transcript to the indigent person. However, the court must be satisfied that the indigent person lacks sufficient means to pay the reporter for making the longhand manuscript or transcript of evidence, and the reporter

may charge the compensation allowed by law in cases for making and furnishing a longhand manuscript, which service of the reporter shall be paid by the court from the proper county treasury.

SECTION 20. IC 33-41 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 41. COURT REPORTERS

Chapter 1. Powers and Duties

Sec. 1. (a) To facilitate and expedite the trial of causes, the judge of each circuit, criminal, superior, probate, and juvenile court of each county shall appoint an official reporter.

(b) The official reporter shall, when required by the recorder's appointing judge, do the following:

- (1)** Be promptly present in the appointing judge's court.
- (2)** Record the oral evidence given in all causes, including both questions and answers.
- (3)** Note all rulings of the judge concerning the admission and rejection of evidence and the objections and exceptions to the admission and rejection of evidence.
- (4)** Write out the instructions of the court in jury trials.

(c) In counties in which the circuit or probate court sits as a juvenile court, the official reporter of the circuit court or probate court, as the case may be:

- (1)** shall report the proceedings of the juvenile court as part of the reporter's duties as reporter of the circuit or probate court; and
- (2)** except as provided in subsection (d), may not receive additional compensation for the reporter's services for reporting the proceedings of the juvenile court.

(d) In counties in which a circuit court has juvenile jurisdiction and where there is a juvenile referee and the circuit judge is the judge of the juvenile court, the salary of the juvenile court reporter is one hundred twenty-five dollars (\$125) per month in addition to any compensation the reporter receives as reporter of the circuit court.

(e) The official reporters of juvenile courts shall:

- (1)** be paid the same amount for their services and in the same manner;

(2) have the same duties; and

(3) be subject to the same restrictions;

as is provided for by law for the official reporters of the other courts. However, in a county having a population of more than two hundred fifty thousand (250,000), the judge of the juvenile court may appoint court reporters as necessary for compliance with the law in regard to the reporting of cases and facilitating and expediting the trial of causes, each of whom is entitled to receive a salary of at least three hundred dollars (\$300) per month.

Sec. 2. (a) A person may not be considered ineligible to serve as official reporter because of the person's gender.

(b) A judge may not appoint the judge's son or daughter as an official reporter.

Sec. 3. At the time of appointment, an official reporter shall take an oath before an officer empowered to administer oaths to faithfully perform his or her duties as an official reporter.

Sec. 4. An official reporter may, at any time, be removed by the judge of the court for which the reporter was appointed. In case of a vacancy in the office of official reporter, the judge of the court in which the vacancy occurs shall fill the vacancy as soon after its occurrence as practicable.

Sec. 5. (a) If requested to do so, an official reporter shall furnish to either party in a cause a transcript of all or any part of the proceedings required by the reporter to be taken or noted, including all documentary evidence.

(b) An official reporter shall furnish the transcript described in subsection (a) written in a plain legible longhand or typewriting as soon after being requested to do so as practicable.

(c) The reporter shall certify that the transcript contains all the evidence given in the cause.

(d) The reporter may require payment for a transcript, or that the payment be satisfactorily secured, before the reporter proceeds to do the required work.

Sec. 6. (a) Every official circuit, superior, criminal, probate, juvenile, and county court reporter appointed under section 1 of this chapter or IC 33-30-7-2 may do the following:

(1) Take and certify all acknowledgments of deeds, mortgages, or other instruments of writing required or authorized by law to be acknowledged.

(2) Administer oaths generally.

(3) Take and certify affidavits, examinations, and depositions.

(4) Perform any duty conferred upon a notary public by Indiana statutes.

(b) Any official reporter taking examinations and depositions may:

(1) take them in shorthand;

(2) transcribe them into typewriting or longhand; and

(3) have them signed by the deposing witness.

(c) Before performing any official duty as authorized, an official reporter must:

(1) provide a bond as is required for notaries public; and

(2) procure a seal that will stamp a distinct impression indicating the reporter's official character, to which may be added any other device as the reporter chooses.

Sec. 7. (a) This section applies to the small claims court established under IC 33-34.

(b) The person who is designated by a judge of the court to prepare transcripts may collect a fee of not more than five dollars (\$5) for each transcript from a person who requests the preparation of a transcript.

Chapter 2. Salaries

Sec. 1. As used in this chapter, "census" means the last preceding United States federal decennial census.

Sec. 2. As used in this chapter, "county salary" means that part of a court reporter's salary that is paid by the county.

Sec. 3. As used in this chapter, "judicial circuit" means any county comprising a single judicial circuit or any combination of one (1) or more counties comprising a single judicial circuit.

Sec. 4. As used in this chapter, "official court reporter" means any court reporter who is appointed as the official court reporter by the judge of any circuit, superior, or probate court in Indiana.

Sec. 5. As used in this chapter, "salary" means the amount of the state salary and the amount of the county salary added together.

Sec. 6. As used in this chapter, "state salary" means that part of a court reporter's salary that is paid by the state.

Sec. 7. County councils shall appropriate annually a sufficient amount to pay the county salaries authorized by this chapter.

Sec. 8. If a judicial circuit is composed of more than one (1) county, all the counties comprising the circuit, for purposes of this chapter, are considered as one (1) county. Each county in a circuit shall pay part of the county salary in the same proportion as its individual classification factor bears to the classification factor of the judicial circuit.

Sec. 9. For the purpose of this chapter:

- (1) counties are graded on the basis of population and gross assessed valuation; and
- (2) each county is set up on the percentage ratio it bears to the state with the whole state being considered as one hundred percent (100%).

Sec. 10. (a) The nine (9) classes of counties as set out in this chapter are based on a unit factor system. The factors are determined by the relation of the county to the state as established and certified to each county auditor by the state board of accounts not later than July 1 of each year. The factors are as follows:

- (1) Population.
- (2) Gross assessed valuation, as shown by the last preceding gross assessed valuation, as certified by the various counties to the auditor of state in the calendar year in which the calculation is made.

(b) The factors for each of the nine (9) classes set out in this chapter shall be obtained as follows:

- (1) The population of each county shall be divided by the population of the entire state.
- (2) The gross assessed valuation of each county shall be divided by the gross assessed valuation of the entire state.
- (3) The results obtained in subdivisions (1) and (2) shall be added together and the sum obtained for each county shall be divided by two (2).
- (4) The result obtained under subdivision (3), multiplied by one hundred (100), determines the classification of each county according to the following schedule:

CLASSIFICATION FACTORS

	HIGH	LOW	CLASS
No Limit		8.00	1
All under	8.00	2.25	2
All under	2.25	1.25	3

All under	1.25	.85	4
All under	.85	.70	5
All under	.70	.60	6
All under	.60	.50	7
All under	.50	.35	8
All under	.35	No limit	9

Sec. 11. The annual salary of each court reporter shall be fixed as provided in this chapter according to the county or counties in which the court reporter holds office. A county or counties may add additional increments to the minimum annual salary according to the usual budget procedures. The salaries shall be paid in equal monthly installments.

Sec. 12. The annual salary of each court reporter shall be:

Class 1	\$7,000
Class 2	\$6,800
Class 3	\$6,500
Class 4	\$6,000
Class 5	\$5,500
Class 6	\$5,200
Class 7	\$5,000
Class 8	\$4,800
Class 9	\$4,500

Sec. 13. If the classification of any judicial circuit is changed by reason of change in population as determined by the census, the salaries of the court reporters of the judicial circuit is governed as provided by this chapter for judicial circuits of the population class into which it is placed. However, a judicial circuit may not be reduced in classification for determining the salary of any court reporter unless the minimum population of any class on July 1, 1965, was reduced more than five percent (5%) by the last preceding United States federal decennial census.

Sec. 14. This chapter may not be considered to repeal or amend IC 33-41-1-1.

Chapter 3. Depositions

Sec. 1. This chapter does not apply to contracts for court reporting services for any of the following:

- (1) A court.
- (2) An agency or instrumentality of a state or political subdivision.

(3) An agency or instrumentality of the government of the United States.

Sec. 2. As used in this chapter, "employee" includes the following:

(1) A person who provides reporting or other court services under a contractual relationship with a person interested in the outcome of litigation, including anyone that may be ultimately responsible for payment.

(2) A person who is employed to provide reporting or other court services part time or full time under a contract or otherwise by a person that has a contractual relationship with a party.

Sec. 3. A deposition to be used in a proceeding in a circuit, superior, probate, county, city, or town court, the court of appeals, or the supreme court must be taken before an individual who:

(1) is described in section 4 of this chapter; and

(2) does not have a prohibited interest or relationship described in section 5 of this chapter.

Sec. 4. A deposition must be taken before:

(1) a hearing officer;

(2) a judge, a clerk, a commissioner, or an official reporter of a court;

(3) a notary public; or

(4) another individual authorized by law to take a deposition.

Sec. 5. (a) Subsection (b)(4) does not apply to a relative or employee of the attorney of one (1) of the parties to a proceeding.

(b) A deposition may not be taken by a person who is:

(1) a party to the proceeding;

(2) a relative, an employee, or an attorney of one (1) of the parties to the proceeding;

(3) someone with a financial interest in the proceeding or its outcome; or

(4) a relative, an employee, or an attorney of a person with a financial interest in the proceeding or its outcome.

Sec. 6. A deposition that is not taken in conformity with section 3 of this chapter is void.

Sec. 7. A person, when reducing a deposition to writing, shall transcribe a page unit of the deposition in the same form as the form required for a record of proceedings under Indiana Rule of

Appellate Procedure 7.2.

SECTION 21. IC 33-42 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 42. NOTARIES PUBLIC**Chapter 1. Jurisdiction**

Sec. 1. The jurisdiction of a notary public qualified in Indiana is co-extensive with the limits of the state. However, a notary may not be compelled to act out of the limits of the county in which the notary public resides.

Chapter 2. Qualifications, Powers, and Duties

Sec. 1. (a) An applicant for a commission as a notary public must be:

- (1) at least eighteen (18) years of age; and
- (2) a legal resident of Indiana.

(b) A notary public shall be appointed and commissioned by the governor. A notary public holds office for eight (8) years. A notary public, when so qualified, may act throughout Indiana.

(c) A person may request an application to become a notary public from the secretary of state. The secretary of state shall prescribe a written application form on which a person may apply for a commission as a notary public. The secretary of state may provide an applicant with enhanced access (as defined in IC 5-14-3-2) to an application form that may be completed and submitted to the secretary of state by means of an electronic device. IC 4-5-10 applies to an application form provided by enhanced access under this section. The application form must include the applicant's county of residence, oath of office, and official bond. The application must also contain any additional information necessary for the efficient administration of this chapter.

(d) The applicant must:

- (1) personally appear with an application form before an officer, authorized by law to administer oaths, who shall administer an oath of office to the applicant; or
- (2) certify on an application form under penalty of perjury that the applicant will abide by the terms of the oath.

The secretary of state shall prescribe the manner in which an applicant may complete a certification authorized under subdivision (2).

(e) The applicant must secure an official bond, with freehold or corporate security, to be approved by the secretary of state in the sum of five thousand dollars (\$5,000). The official bond must be conditioned upon the faithful performance and discharge of the duties of the office of notary public, in all things according to law, for the use of any person injured by a breach of the condition. The completed application must be forwarded to the secretary of state. The secretary of state shall forward each commission issued by the governor to the applicant or the applicant's surety company.

(f) The secretary of state shall charge and collect the following fees:

- (1) For each commission to notaries public, five dollars (\$5).
- (2) For each duplicate commission to notaries public, five dollars (\$5).

Sec. 2. (a) A notary public may not do any of the following:

- (1) Use any other name or initial in signing acknowledgments, other than that by which the notary has been commissioned.
- (2) Acknowledge any instrument in which the notary's name appears as a party to the transaction.
- (3) Take the acknowledgment of or administer an oath to any person whom the notary actually knows:
 - (A) has been adjudged mentally incompetent by a court; and
 - (B) to be under a guardianship under IC 29-3 at the time the notary takes the acknowledgment or administers the oath.
- (4) Take the acknowledgment of any person who is blind, without first reading the instrument to the blind person.
- (5) Take the acknowledgment of any person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does speak or understand.
- (6) Acknowledge the execution of:
 - (A) an affidavit, unless the affiant acknowledges the truth of the statements in the affidavit; or
 - (B) an instrument, unless the person who executed the instrument:
 - (i) signs the instrument before the notary; or
 - (ii) affirms to the notary that the signature on the

instrument is the person's own.

(b) If a notary public violates this article, the notary's appointment may be revoked by the judge of the circuit court in which the notary resides.

(c) The secretary of state may:

- (1) investigate any possible violation of this section by a notary public; and
- (2) under IC 4-21.5, revoke the commission of a notary public who violates this section.

If the secretary of state revokes the commission of a notary public, the notary public may not reapply for a new commission for five (5) years after the revocation.

Sec. 3. The governor may appoint notaries public in the several counties if, in the governor's judgment, the public interest would be promoted by the appointment.

Sec. 4. (a) A notary may not act until the notary has procured a seal that will stamp upon paper a distinct impression, in words or letters, sufficiently indicating the notary's official character, to which may be added any other device as the notary public may choose.

(b) All notarial acts not attested by a seal as described in subsection (a) are void.

Sec. 5. A notary may:

- (1) do all acts that by common law, and the custom of merchants, notaries are authorized to do;
- (2) take and certify all acknowledgments of deeds or other instruments of writing required or authorized by law to be acknowledged; and
- (3) administer oaths generally, and take and certify affidavits and depositions.

Sec. 6. The official certificate of a notary public, attested by the notary's seal, is presumptive evidence of the facts stated in cases where, by law, the notary public is authorized to certify the facts.

Sec. 7. (a) A person who holds any lucrative office or appointment under the United States or under this state, and prohibited by the Constitution of the State of Indiana from holding more than one (1) lucrative office, may not serve as a notary public. If a person accepts a lucrative office or appointment, the person shall vacate the person's appointment as a notary.

(b) Subsection (a) does not apply to a person who holds a lucrative office or appointment under any civil or school city or town of Indiana. A person who is a public official, or a deputy or appointee acting for or serving under a public official, may not make any charge for services as a notary public in connection with any official business of that office, or of any other office in the governmental unit in which the person serves unless the charges are specifically authorized by a statute other than the statute that establishes generally the fees and charges of notaries public.

Sec. 8. (a) Upon the request of the clerk of the circuit court of a county, the secretary of state shall furnish to the clerk a list of all commissioned notaries public residing in that county.

(b) If a notary public changes the notary's:

- (1) name; or
- (2) county of residence;

during the term of the notary's commission, the notary public shall notify the secretary of state in writing of the change.

(c) The secretary of state shall process a revised commission to reflect any change of name or county. A revised commission under this subsection is valid for the unexpired term of the original commission.

Sec. 9. (a) A notary, in addition to affixing the notary's name, expiration date, and seal, shall:

- (1) print or type the notary's name immediately beneath the notary's signature on a certificate of acknowledgment, jurat, or other official document, unless the notary's name appears:
 - (A) in printed form on the document; or
 - (B) as part of the notary's stamp in a form that is legible when the document is photocopied; and
- (2) indicate the notary's county of residence on the document.

(b) Failure to comply with subsection (a) does not affect the validity of any document notarized before July 1, 1982.

Sec. 10. A person who:

- (1) is not an attorney in good standing admitted to practice law in Indiana; and
- (2) knowingly or intentionally:
 - (A) advertises the person's services in a language other than English;
 - (B) represents in the advertisement that the person is a

notary, notary public, notario, notario publico, or another designation that indicates in a language other than English that the person is a notary public; and

(C) fails to conspicuously state in the advertisement, both in English and in the language of the advertisement, that the person is not an attorney in good standing admitted to practice law in Indiana;

commits a Class A misdemeanor.

Chapter 3. Requirement of Appending Date of Expiration of Commission

Sec. 1. A person commissioned as a notary public by the state shall append a true statement of the date of the expiration of the notary's commission as a notary public to any certificate of acknowledgment of a deed, mortgage, or other instrument or any jurat or other official document at the time the document is signed.

Sec. 2. A notary public who omits to make the statement required by section 1 of this chapter commits a Class C infraction.

Chapter 4. Administering Oaths and Taking Acknowledgments

Sec. 1. The following may subscribe and administer oaths and take acknowledgments of all documents pertaining to all matters where an oath is required:

- (1) Notaries public.
- (2) Justices and judges of courts, in their respective jurisdictions.
- (3) The secretary of state.
- (4) The clerk of the supreme court.
- (5) Mayors, clerks, clerk-treasurers of towns and cities, and township trustees, in their respective towns, cities, and townships.
- (6) Clerks of circuit courts and master commissioners, in their respective counties.
- (7) Judges of United States district courts of Indiana, in their respective jurisdictions.
- (8) United States commissioners appointed for any United States district court of Indiana, in their respective jurisdictions.
- (9) A precinct election officer (as defined in IC 3-5-2-40.1) and an absentee voter board member appointed under IC 3-11-10, for any purpose authorized under IC 3.

(10) A member of the Indiana election commission, a co-director of the election division, or an employee of the election division under IC 3-6-4.2.

(11) County auditors, in their respective counties.

(12) Any member of the general assembly anywhere in Indiana.

Sec. 2. A person authorized to administer oaths or take acknowledgments who, with intent to defraud:

(1) affixes the person's signature to a blank form of affidavit or certificate of acknowledgment; and

(2) delivers that form to another person, with intent that it be used as an affidavit or acknowledgment;

commits a Class D felony.

Sec. 3. A person who knowingly uses a form that was delivered to the person in violation of section 2 of this chapter commits a Class D felony.

Chapter 5. The Authority of a Township Trustee to Perform Notarial Acts

Sec. 1. A township trustee may perform any act that a notary public may perform in Indiana. Acknowledgments to deeds or other instruments taken by a trustee shall be recorded as if the acknowledgments had been acknowledged before a notary public.

Sec. 2. Before a trustee may perform a notarial act, the trustee must obtain a seal that can stamp upon paper a distinct impression that indicates the trustee's official character, along with any other information that the trustee chooses. A notarial act of a trustee that is not attested by a seal is void.

Sec. 3. When signing any certificate of acknowledgment, jurat, or other official document, the trustee must append to it the trustee's date of election as a trustee.

Sec. 4. A trustee may not receive a fee for performing a notarial act.

Sec. 5. A trustee may not perform an act that is prohibited to a notary public.

Chapter 6. Federal Land Bank Employees Acting as Notaries in Certain Transactions

Sec. 1. A notary public who is a stockholder or an officer of a cemetery association whose rules or constitution prohibit an officer or a stockholder from becoming a beneficiary from the sale of lots

by the cemetery association may take acknowledgments of sales of lots.

Chapter 7. Acknowledgment of Lot Sales by a Notary Who Is a Member of Cemetery Association

Sec. 1. A notary public who is a stockholder or an officer of a cemetery association whose rules or constitution prohibit an officer or a stockholder from becoming a beneficiary from the sale of lots by the cemetery association may take acknowledgments of sales of lots.

Chapter 8. Maximum Fees

Sec. 1. The maximum fee of a notary public is two dollars (\$2) for each notarial act.

SECTION 22. IC 33-43 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 43. PRACTICE OF LAW

Chapter 1. Practice of Law by Attorneys

Sec. 1. (a) A person, before proceeding to discharge the duties of an attorney, shall take an oath to:

- (1) support the Constitution of the United States and the Constitution of the State of Indiana; and
- (2) faithfully and honestly discharge the duties of an attorney at law.

(b) The oath taken under subsection (a) must be entered in the order book of the court.

Sec. 2. At each term of the court, the clerk shall furnish the court with a list of the names of all attorneys having business in that court.

Sec. 3. An attorney shall do the following:

- (1) Support the Constitution and laws of the United States and of Indiana.
- (2) Maintain the respect that is due to the courts of justice and judicial officers.
- (3) Only counsel or maintain actions, proceedings, or defenses that appear to the attorney to be legal and just. However, this subdivision may not be construed to prevent the defense of a person charged with a crime.
- (4) Employ, for the purpose of maintaining the causes confided to the attorney, only those means that are consistent

with truth and never seek to mislead the court or jury by any artifice or false statement of fact or law.

(5) Maintain inviolate the confidence and, at every peril to the attorney, to preserve the secrets of the attorney's client.

(6) Abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which the attorney is charged.

(7) Not to encourage either the commencement or the continuance of an action or proceeding from any motive of passion or interest.

(8) Never to reject, from any consideration personal to the attorney, the cause of the defenseless or oppressed.

(9) To promptly account to and pay over to a client any money coming into the hands of the attorney to which the client is lawfully entitled.

(10) To abstain from direct or indirect solicitation of employment to institute, prosecute, or defend against any claim, action, or cause of action.

Sec. 4. Until superseded by another attorney or discharged, an attorney may do the following:

(1) Bind the attorney's client in an action or a special proceeding, by the attorney's agreement that is either filed with the clerk or entered upon the minutes of the court.

(2) Receive money claimed by the attorney's client during the pendency of an action or a special proceeding.

(3) Discharge a claim or acknowledge satisfaction of a judgment after the money claimed has been received under subdivision (2).

Sec. 5. Unless the written authority of a party is first produced and its execution is satisfactorily proved to the court, a judgment may not be rendered against any party:

(1) upon the agreement of an attorney; or

(2) by default;

when the party has not been notified or personally entered an appearance.

Sec. 6. The court or judge may:

(1) on motion of either party that shows reasonable grounds;
or

(2) without a motion;
require an attorney to produce and prove the authority under which the attorney appears. The court may stay all proceedings by the attorney on behalf of the party for whom the attorney assumes to appear until the attorney produces and proves authority to appear.

Sec. 7. If a party alleges that an attorney appears on behalf of the party without the party's authority the court may, at any stage of the proceedings, relieve the party from the consequences of the attorney's act. The court may also, summarily or upon motion, compel the attorney to repair the injury consequent upon the attorney's assumption of authority.

Sec. 8. (a) An attorney who is guilty of deceit or collusion, or consents to deceit or collusion, with intent to deceive a court, judge, or party to an action or judicial proceeding commits a Class B misdemeanor.

(b) A person who is injured by a violation of subsection (a) may bring a civil action for treble damages.

Sec. 9. If, on request, an attorney refuses to deliver over money or papers to a person from whom or for whom the attorney has received them, in the course of the attorney's professional employment, the attorney may be required, after reasonable notice, on motion of any party aggrieved, by an order of the court in which an action, if any, was prosecuted or if an action was not prosecuted, by the order of any court of record, to deliver the money or papers within a specified time, or show cause why the attorney should not be punished for contempt.

Sec. 10. If an attorney has been ordered to deliver money or papers under section 9 of this chapter, on a motion or in an action brought by the aggrieved party, the court may take any of the following actions:

- (1) Suspend the attorney from practice in any of the courts of Indiana, for any length of time, in the court's discretion.
- (2) Enter judgment for the amount of money withheld, deducting fees, if any are due, and costs paid by the attorney, with ten percent (10%) damages, that may be enforced by execution, without the benefit of stay or appraisal laws, and returnable within thirty (30) days.
- (3) Render any judgment and make any order with respect to

the papers or property withheld, that may be necessary to enforce the right of the party aggrieved. The judgement or order is subject to any liens the attorney has for fees.

Chapter 2. Prohibition on Practicing Law by Nonattorneys

Sec. 1. A person who:

- (1) professes to be a practicing attorney;**
- (2) conducts the trial of a case in a court in Indiana; or**
- (3) engages in the business of a practicing lawyer;**

without first having been admitted as an attorney by the supreme court commits a Class B misdemeanor.

Sec. 2. In a prosecution under this chapter, the state is not required to prove that the defendant has not been admitted as an attorney. The burden of proving admission is on the defendant.

Chapter 3. Prohibition on Solicitation by Nonattorneys

Sec. 1. Soliciting another person to bring an action for damages by a person who is not an attorney is prohibited under IC 35-45-14.

Chapter 4. Attorney Entitled to Hold Lien on Judgment

Sec. 1. An attorney practicing law in a court of record in Indiana may hold a lien for the attorney's fees on a judgment rendered in favor of a person employing the attorney to obtain the judgment.

Sec. 2. (a) An attorney, not later than sixty (60) days after the date the judgment is rendered, must enter in writing upon the docket or record in which the judgment is recorded, the attorney's intention to hold a lien on the judgment, along with the amount of the attorney's claim.

(b) If an appeal is taken on a judgment, the lien may be entered not later than sixty (60) days after the date the opinion of the higher court is recorded in the office of the clerk of the trial court or after the date of final judgment where the cause is reversed and retried.

SECTION 23. IC 33-44 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 44. INTEREST BEARING ATTORNEY TRUST ACCOUNTS

Chapter 1. Legislative Findings

Sec. 1. The general assembly finds that:

- (1) due to insufficient funding, existing programs providing**

free legal services in civil matters to indigent persons do not adequately meet the needs of indigent persons;

(2) the use of funds collected under this article for these purposes is in the public interest, is a proper use of the funds, and is consistent with essential public and governmental purposes in the judicial branch of government; and

(3) the expansion, improvement, and initiation of legal services to indigent persons will aid in the advancement of the science of jurisprudence and in the improvement of the administration of justice.

Sec. 2. It is the purpose of this article to expand the availability and improve the quality of existing free legal services in civil matters to indigent persons and to initiate new programs that will provide services to them.

Chapter 2. Application of Article

Sec. 1. This article does not apply to an activity that is:

(1) the practice of law; and

(2) regulated by the judicial department of state government.

Sec. 2. This article does not apply to the investment of nonqualified funds by an attorney:

(1) in any other investment specified by a client or beneficial owner; or

(2) as agreed to by the client, beneficial owner, or attorney.

Sec. 3. An attorney is not subject to disciplinary action as a result of any action taken in accordance with this article.

Chapter 3. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Attorney" means an individual in good standing admitted to the practice of law in Indiana. The term includes a professional corporation (as defined in IC 23-1.5-1-10) formed by one (1) or more attorneys.

Sec. 3. "Board" refers to the Indiana attorney trust account board established by IC 33-44-4-1.

Sec. 4. "Depository financial institution" means a bank, a bank or trust company, a credit union, an industrial loan and investment company, a savings bank, or a savings association, whether chartered, incorporated, licensed, or organized under Indiana law or the law of the United States that:

- (1) does business in Indiana; and**
- (2) is insured by the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund, the National Credit Union Administration, or an alternate share insurer.**

Sec. 5. "Eligible client" means a person:

- (1) who resides in Indiana; and**
- (2) whose income:**
 - (A) satisfies the eligibility standards established by a legal aid program or legal services program existing in Indiana on January 1, 1990, if the program's client eligibility standards provide that the client's income may not exceed one hundred fifty percent (150%) of the current poverty threshold established by the United States Office of Management and Budget;**
 - (B) is not more than one hundred fifty percent (150%) of the current poverty threshold established by the United States Office of Management and Budget; or**
 - (C) satisfies the eligibility standard for Supplemental Security Income or free services under the Older Americans Act of 1965, as amended (42 U.S.C. 3001-3057) or Developmentally Disabled Assistance and Bill of Rights Act (42 U.S.C. 6000-6083).**

Sec. 6. "Fee generating case" means a case or matter that, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably would be expected to result in payment of a fee for legal services from an award to a client from public funds or from the opposing party. A case is not considered a fee generating case if adequate representation is unavailable and if any of the following circumstances exist concerning the case:

- (1) The qualified legal services provider that represents the indigent in the case has determined in good faith that free referral is not possible for any of the following reasons:**
 - (A) The case has been rejected by the lawyer referral service serving the county of the eligible client's residence, or if there is no such service, by two (2) attorneys in private practice who have experience in the subject matter of the case.**
 - (B) Neither the lawyer referral service described in clause (A), if one exists, nor any attorney will consider the case**

without payment of a consultation fee.

(C) The case is of a type that attorneys in private practice ordinarily do not accept or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the eligible client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a qualified legal services provider or its employee to represent the indigent in the case under a statute, a court rule, or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement is based on need.

Sec. 7. "Fund" refers to the Indiana attorney trust account fund established by IC 33-44-7-1.

Sec. 8. "Interest bearing attorney trust account" means an account with a depository financial institution that is:

- (1) unsegregated;
- (2) interest bearing;
- (3) for the deposit of qualified funds by an attorney; and
- (4) capable of being drawn upon by the depositor in the same manner as a checking account that is not interest bearing.

Sec. 9. (a) "Legal assistance" means direct representation by an attorney of an eligible client in a civil matter pending in Indiana, including counsel, litigation, research, coordination with pro bono programs, support services, substantive and procedural training for attorneys and paralegals in poverty law subjects, and any other activity necessary to ensure the effective delivery of quality legal services in a civil matter.

(b) The term does not include representation of an eligible client

in:

- (1) criminal matters; or
- (2) a fee generating case.

Sec. 10. "Qualified funds" means money received by an attorney from a client or beneficial owner in a fiduciary capacity that, in the good faith judgment of the attorney, is:

- (1) of such an amount; or
- (2) reasonably expected to be held for such a short term; that sufficient interest income will not be generated to justify the expense of administering a segregated account.

Sec. 11. "Qualified legal services provider" means a nonprofit organization organized in Indiana and operating exclusively in Indiana that, as its primary purpose and function, provides legal assistance without charge to eligible clients in civil matters only.

Chapter 4. Indiana Attorney Trust Account Board

Sec. 1. The Indiana attorney trust account board is established.

Sec. 2. The board consists of eleven (11) members.

Sec. 3. The chief justice of the supreme court shall appoint six (6) members to the board.

Sec. 4. The following officials shall each appoint one (1) member to the board:

- (1) The governor.
- (2) The speaker of the house of representatives.
- (3) The minority leader of the house of representatives.
- (4) The president pro tempore of the senate.
- (5) The minority floor leader of the senate.

Sec. 5. The chief justice shall consider the following factors as favorable in appointing a member under section 3 of this chapter:

- (1) Whether the individual is a dean of an Indiana law school.
- (2) Whether the individual is a director or board member of an Indiana legal services or legal aid program.
- (3) Whether the individual is a member of the Indiana State Bar Association.
- (4) Whether the appointment of the individual would result in representation on the board from the first district, second district, and third district of the court of appeals.
- (5) Whether the individual is a representative of a depository financial institution.
- (6) Whether the individual is an eligible client.

Sec. 6. Not more than four (4) of the members appointed by the chief justice may be members of the same political party.

Sec. 7. A member of the board serves a term of four (4) years.

Sec. 8. The appointing authority shall fill a vacancy on the board.

Sec. 9. The chief justice shall appoint a member of the board to serve as chairperson not later than December 1 of each year.

Sec. 10. The term of a chairperson begins January 1 following the chairperson's appointment under section 9 of this chapter.

Sec. 11. A member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided by the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 12. A member of the board who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided by the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 13. The board shall administer the fund in accordance with IC 33-44-7.

Sec. 14. The board may receive, hold, and manage property.

Sec. 15. The board may adopt rules under IC 4-22-2 to implement this article.

Sec. 16. The board shall develop programs to:

- (1) educate attorneys and depository financial institutions concerning this article; and
- (2) encourage attorneys to create and maintain interest bearing attorney trust accounts.

Chapter 5. Participation by Attorneys

Sec. 1. Except as provided in section 2 of this chapter, each attorney is subject to this article.

Sec. 2. An attorney is not subject to this article if the attorney:

- (1) does not place any qualified funds in an interest bearing attorney trust account; and
- (2) submits a written statement to the board.

Sec. 3. The statement submitted under section 2 of this chapter must:

- (1) be filed in accordance with rules adopted under IC 4-22-2 by the board; and
- (2) state that the attorney is acting under section 2 of this chapter to exempt the attorney from the application of this article.

Sec. 4. If an attorney does not act under section 2 of this chapter, the board shall presume that the attorney has elected to be subject to this article.

Sec. 5. An attorney subject to this article shall place all qualified funds in an interest bearing attorney trust account.

Sec. 6. An attorney subject to this article shall determine if money received from a client or beneficial owner constitutes qualified funds.

Sec. 7. In making the determination under section 6 of this chapter, the attorney shall consider the following:

- (1) The amount of interest the money would earn during the period the money is expected to be deposited.
- (2) The cost of establishing and administering the account.
- (3) The capability of the depository financial institution to calculate and pay the interest earned by each client's funds, after deduction of any service charges, to the client.

Sec. 8. An attorney:

- (1) does not breach a fiduciary duty;
- (2) is not liable in damages; and
- (3) is not subject to disciplinary action;

because of a deposit of money in an interest bearing attorney trust account if the attorney acted in accordance with a good faith judgment that the money constituted qualified funds.

Chapter 6. Interest Bearing Attorney Trust Accounts

Sec. 1. If the depositor and depository financial institution agree, a trust account that contains qualified funds held by an attorney subject to this article may be made an interest bearing attorney trust account.

Sec. 2. The terms and conditions of an interest bearing attorney trust account, except as required under this chapter, shall be determined by the depositor and the depository financial institution. A depository financial institution is not required to

offer an interest bearing attorney trust account.

Sec. 3. The board owns the beneficial interest in the interest accrued by an interest bearing attorney trust account of an attorney who is subject to this article.

Sec. 4. Except for amounts deducted under terms or conditions agreed upon under section 2 of this chapter, a depository financial institution shall remit any interest earned on an interest bearing attorney trust account to the board.

Sec. 5. A depository financial institution shall make the remittance required under section 4 of this chapter not less frequently than quarterly and not later than fifteen (15) days after the end of the remittance period.

Sec. 6. A depository financial institution shall transmit a statement to:

- (1) the board; and
- (2) the attorney who maintains the interest bearing attorney trust account;

when the depository financial institution remits interest under section 4 of this chapter.

Sec. 7. The statement described in section 6 of this chapter must contain the following information:

- (1) The name of the account.
- (2) The amount of interest remitted from the account.

Sec. 8. A depository financial institution is not required to determine or inquire whether a deposit includes qualified funds.

Sec. 9. The remittance of interest by a depository financial institution to the board from an interest bearing attorney trust account is a valid and sufficient release and discharge of a claim by an entity against the depository financial institution for the remittance.

Sec. 10. An entity may not maintain an action against a depository financial institution solely for:

- (1) offering, opening, or maintaining an interest bearing attorney trust account;
- (2) accepting funds for deposit in an interest bearing attorney trust account; or
- (3) remitting interest to the board.

Sec. 11. A paper, a record, a document, or other information identifying an attorney, a client, or a beneficial owner of an interest

bearing attorney trust account is confidential.

Sec. 12. The board or a depository financial institution may not disclose information described by section 11 of this chapter except:

- (1) with the consent of the attorney maintaining the account;
- or
- (2) as permitted by:
 - (A) law; or
 - (B) rule adopted by the judicial department of state government.

Chapter 7. Indiana Attorney Trust Account Fund

Sec. 1. The Indiana attorney trust account fund is established as a trust fund to be used solely as provided under this article.

Sec. 2. The fund shall be administered by the board in accordance with rules adopted under IC 4-22-2 by the board.

Sec. 3. The board shall deposit the interest remitted under IC 33-44-6-4 into the fund.

Sec. 4. The money in the fund consists of public funds.

Sec. 5. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 6. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 7. For purposes of Indiana law, income received by the board from the remittance of interest is not taxable to:

- (1) the attorney maintaining the interest bearing attorney trust account; or
- (2) the client whose funds are deposited in the interest bearing attorney trust account.

Sec. 8. The board may not disburse money in the fund except for:

- (1) the delivery of civil legal assistance to eligible clients;
- (2) programs or projects in the public interest that assist in the improvement of the administration of justice; and
- (3) administrative costs.

Sec. 9. During each year the board shall disburse money from the fund for the payment of administrative costs to the extent permitted under section 14 of this chapter. After the payment of administrative costs, any money disbursed by the board from the

fund during that year shall be disbursed as follows:

(1) Ninety percent (90%) of the funds shall be disbursed to provide legal assistance to eligible clients by:

(A) qualified legal services providers; or

(B) law school clinics in Indiana that provide free civil legal assistance to eligible clients.

(2) Ten percent (10%) of the funds shall be disbursed for programs or projects in the public interest that assist in the improvement of the administration of justice, including the following:

(A) Guardian ad litem and court appointed special advocate programs that provide guardians ad litem or court appointed special advocates for appointment by the court:

(i) under IC 31-17-2-12 to conduct an investigation and prepare a report in a custody proceeding; or

(ii) under IC 31-33-15-1, IC 31-34-10, or IC 31-40.

(B) Lawyer referral services in Indiana that provide:

(i) a referral to an attorney in private practice without a charge for the referral; and

(ii) an initial consultation with an attorney in private practice without a charge for the consultation;

in a fee generating case.

Sec. 10. An entity that receives funds disbursed under section 9(1) of this chapter during a year is not eligible to receive funds disbursed under section 9(2) of this chapter during that year.

Sec. 11. An entity that receives funds disbursed under section 9(2) of this chapter during a year is not eligible to receive funds disbursed under section 9(1) of this chapter during that year.

Sec. 12. The board shall periodically:

(1) enter into contracts with; and

(2) award grants to;

qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice to carry out the purpose of the fund.

Sec. 13. In making disbursements from the fund under section 9(1) of this chapter, the board shall primarily consider the geographic distribution by county of persons with incomes of not more than the current poverty threshold established by the United

States Office of Management and Budget, as indicated in the most current report published by the Bureau of the Census. However, the board may use other considerations in making disbursements from the fund when demonstrable legal needs are documented by a qualified legal services provider.

Sec. 14. Total administrative costs, including payments to board members under IC 33-44-4-11 and IC 33-44-4-12, costs for employees under IC 33-44-8, and all other costs of managing and administering the fund and otherwise performing all responsibilities of the board, may not exceed fifteen percent (15%) of the amounts received into the fund from interest bearing attorney trust accounts.

Sec. 15. The state board of accounts shall conduct an audit of the fund at least one (1) time during each year to ensure that the fund is administered as required by this chapter. The state board of accounts may conduct audits of qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice as the state board of accounts considers necessary to ensure that the money distributed to qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice is being used as required by this article.

Chapter 8. Board Employees

Sec. 1. The board may appoint an executive director to carry out this article.

Sec. 2. The executive director may:

- (1) employ persons; or
- (2) contract for services;

upon approval by the board.

Sec. 3. An employee of the board serves at the pleasure of the board.

Chapter 9. Annual Report

Sec. 1. The board shall file a report with:

- (1) the governor;
- (2) the legislative council; and
- (3) the chief justice of the supreme court;

before December 31 of each year. The report filed with the legislative council must be in an electronic format under IC 5-14-6.

Sec. 2. The report filed under section 1 of this chapter must include the following information for the annual period ending June 30:

- (1) The number of eligible clients served.**
- (2) The amount of interest paid into the fund by the board during the year as remittances by depository financial institutions and the amount of interest deposited in the fund during the year from investments by the treasurer of state.**
- (3) The amount disbursed, by category, for direct legal services, to law school clinics, to programs or projects in the public interest that assist in the improvement of the administration of justice, administrative costs, and for educational purposes.**
- (4) The number of attorneys subject to this article.**
- (5) The number of attorneys submitting written statements under IC 33-44-5-2.**
- (6) The identity of qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice to whom grants have been made or with whom contracts have been executed and the amounts disbursed to each.**

SECTION 24. IC 1-1-3.5-5, AS AMENDED BY P.L.204-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) The governor shall forward a copy of the executive order issued under section 3 of this chapter to:

- (1) the director of the Indiana state library;
- (2) the election division; and
- (3) the Indiana Register.

(b) The director of the Indiana state library, or an employee of the Indiana state library designated by the director to supervise a state data center established under IC 4-23-7.1, shall notify each state agency using population counts as a basis for the distribution of funds or services of the effective date of the tabulation of population or corrected population count.

(c) The agencies that the director of the Indiana state library must notify under subsection (b) include the following:

- (1) The auditor of state, for distribution of money from the following:

- (A) The cigarette tax fund in accordance with IC 6-7-1-30.1.
- (B) Excise tax revenue allocated under IC 7.1-4-7-8.
- (C) The local road and street account in accordance with IC 8-14-2-4.
- (D) The repayment of loans from the Indiana University permanent endowment funds under IC 21-7-4.
- (2) The board of trustees of Ivy Tech State College, for the board's division of Indiana into service regions under IC 20-12-61-9.
- (3) The department of commerce, for the distribution of money from the following:
 - (A) The rural development fund under IC 4-4-9.
 - (B) The growth investment program fund under IC 4-4-20.
- (4) The division of disability, aging, and rehabilitative services, for establishing priorities for community residential facilities under IC 12-11-1.1 and IC 12-28-4-12.
- (5) The department of state revenue, for distribution of money from the motor vehicle highway account fund under IC 8-14-1-3.
- (6) The enterprise zone board, for the evaluation of enterprise zone applications under IC 4-4-6.1.
- (7) The alcohol and tobacco commission, for the issuance of permits under IC 7.1.
- (8) The Indiana library and historical board, for distribution of money to eligible public library districts under IC 4-23-7.1-29.
- (9) The state board of accounts, for calculating the state share of salaries paid under ~~IC 33-13-12, IC 33-14-7, and IC 33-15-26.~~
IC 33-38-5, IC 33-39-6, and IC 33-41-2.

SECTION 25. IC 3-5-7-6, AS ADDED BY P.L.202-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) This section does not apply to any of the following:

- (1) A candidate in a presidential primary election under IC 3-8-3.
- (2) A candidate for President of the United States.
- (3) A candidate for Vice President of the United States.
- (b) As used in this section, "candidacy document" refers to any of the following:
 - (1) A declaration of intent to be a write-in candidate.
 - (2) A declaration of candidacy.
 - (3) A consent to the nomination.

- (4) A consent to become a candidate.
- (5) A certificate of candidate selection.
- (6) A consent filed under IC 3-13-2-7.
- (7) A statement filed under ~~IC 33-2-1-2-6~~. **IC 33-24-2 or IC 33-25-2.**

(c) Whenever a candidate files a candidacy document on which the candidate uses a name that is different from the name set forth on the candidate's voter registration record, the candidate's signature on the candidacy document constitutes a request to the county voter registration office that the name on the candidate's voter registration record be the same as the name the candidate uses on the candidacy document.

(d) A request by a candidate under this section is considered filed with the county voter registration office when the candidacy document is filed with the election division or the county election board.

(e) The election division or the county election board shall forward a request filed under this section to the county voter registration office not later than seven (7) days after receiving the request.

SECTION 26. IC 3-6-4.5-7, AS ADDED BY P.L.209-2003, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. As required by 42 U.S.C. 15512, a complaint filed under this chapter must be written, signed, and sworn to before an individual authorized to administer an oath under ~~IC 33-16-4~~. **IC 33-42-4.**

SECTION 27. IC 3-6-5.1-7, AS ADDED BY P.L.209-2003, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. A complaint filed under this chapter must be written, signed, and sworn to before an individual authorized to administer an oath under ~~IC 33-16-4~~. **IC 33-42-4.**

SECTION 28. IC 3-8-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. A candidate for the office of judge of a superior or probate court must:

- (1) be admitted to the practice of law in Indiana upon filing a declaration of candidacy or petition of nomination, or upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; and
- (2) comply with any other requirement for that office set forth in ~~IC 33-5 or IC 33-8~~. **IC 33-29, IC 33-33, or IC 33-31.**

SECTION 29. IC 3-8-1-28.5, AS AMENDED BY P.L.14-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28.5. (a) This section does not apply to a candidate for the office of judge of a city court in a city located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(b) A candidate for the office of judge of a city court must reside in the city upon filing a declaration of candidacy or declaration of intent to be a write-in candidate required under IC 3-8-2, a petition of nomination under IC 3-8-6, or a certificate of nomination under IC 3-10-6-12.

(c) A candidate for the office of judge of a city court must reside in a county in which the city is located upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8.

(d) This subsection applies to a candidate for the office of judge of a city court listed in ~~IC 33-10-1-5-7(c)~~: **IC 33-35-5-7(c)**. Before a candidate for the office of judge of the court may file a:

- (1) declaration of candidacy or petition of nomination;
- (2) certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; or
- (3) declaration of intent to be a write-in candidate or certificate of nomination under IC 3-8-2-2.5 or IC 3-10-6-12;

the candidate must be an attorney in good standing admitted to the practice of law in Indiana.

SECTION 30. IC 3-8-1-29.5, AS AMENDED BY P.L.14-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29.5. (a) This section applies to a candidate for the office of judge of a town court listed in ~~IC 33-10-1-5-7(c)~~: **IC 33-35-5-7(c)**.

(b) Before a candidate for the office of judge of the court may file a:

- (1) declaration of candidacy or petition of nomination;
- (2) certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; or
- (3) declaration of intent to be a write-in candidate or certificate of nomination under IC 3-8-2-2.5 or IC 3-10-6-12;

the candidate must be an attorney in good standing admitted to the practice of law in Indiana.

SECTION 31. IC 3-8-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) A candidate for an office listed in subsection (b) must file a statement of economic interests.

(b) Whenever a candidate for any of the following offices is also required to file a declaration of candidacy or is nominated by petition, the candidate shall file a statement of economic interests before filing the declaration of candidacy or declaration of intent to be a write-in candidate, before the petition of nomination is filed, before the certificate of nomination is filed, or before being appointed to fill a candidate vacancy under IC 3-13-1 or IC 3-13-2:

(1) Governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction, in accordance with IC 4-2-6-8.

(2) Senator and representative in the general assembly, in accordance with IC 2-2.1-3-2.

(3) Justice of the supreme court, clerk of the supreme court, judge of the court of appeals, judge of the tax court, judge of a circuit court, judge of a superior court, judge of a county court, judge of a probate court, and prosecuting attorney, in accordance with ~~IC 33-2-1-8-6 and IC 33-2-1-8-7. IC 33-23-11-14 and IC 33-23-11-15.~~

SECTION 32. IC 3-8-7-16, AS AMENDED BY P.L.66-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) This section does not apply to the certification of nominees under IC 3-10-4-5.

(b) The election division shall certify the following to each county election board not later than noon August 20 before an election:

(1) The name and place of residence of each person nominated for election to:

(A) an office for which the electorate of the whole state may vote;

(B) the United States House of Representatives;

(C) a legislative office; or

(D) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

(2) The name of each:

(A) justice of the supreme court;

(B) judge of the court of appeals; and

(C) judge of the tax court;

who is subject to a retention vote by the electorate and who has filed a statement under ~~IC 33-2-1-2-6~~ **IC 33-24-2 or IC 33-25-2** indicating that the justice or judge wishes to have the question of the justice's or judge's retention placed on the ballot.

(c) Subject to compliance with section 11 of this chapter, the election division shall designate the device under which the list of candidates of each political party will be printed and the order in which the political party ticket will be arranged under IC 3-10-4-2 and IC 3-11-2-6.

SECTION 33. IC 3-10-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. At a primary election a voter may vote for as many candidates for each office as there are persons to be elected to that office at the general election, except as provided in ~~IC 33-5-1-2-8~~ **IC 33-33-49-13** for candidates for judge of the Marion superior court.

SECTION 34. IC 3-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

To vote for a person make a voting mark (X or H) on or in the box before the person's name in the proper column.

Vote for one only

Representative in Congress

☐ (1) AB _____

☐ (2) CD _____

☐ (3) EF _____

☐ (4) GH _____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

- (2) Legislative offices:
 - (A) State senator.
 - (B) State representative.
- (3) Circuit offices and county judicial offices:
 - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
 - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
 - (C) Judge of the probate court.
 - (D) Judge of the county court, with each division separate, as required by ~~IC 33-10.5-4-2~~. **IC 33-30-3-3.**
 - (E) Prosecuting attorney.
 - (F) Clerk of the circuit court.
- (4) County offices:
 - (A) County auditor.
 - (B) County recorder.
 - (C) County treasurer.
 - (D) County sheriff.
 - (E) County coroner.
 - (F) County surveyor.
 - (G) County assessor.
 - (H) County commissioner.
 - (I) County council member.
- (5) Township offices:
 - (A) Township assessor.
 - (B) Township trustee.
 - (C) Township board member.
 - (D) Judge of the small claims court.
 - (E) Constable of the small claims court.
- (6) City offices:
 - (A) Mayor.
 - (B) Clerk or clerk-treasurer.
 - (C) Judge of the city court.
 - (D) City-county council member or common council member.
- (7) Town offices:
 - (A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):

(1) Precinct committeeman.

(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

(1) School board offices to be elected at the primary election.

(2) Other local offices to be elected at the primary election.

(3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed in a separate column on the ballot if voting is by paper ballot, ballot card voting system, or electronic voting system or in a separate column of ballot labels if voting is by voting machine.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)

"Shall (insert public question)?"

☐ YES

☐ NO

SECTION 35. IC 3-10-6-6, AS AMENDED BY P.L.122-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter shall:

(1) at the general election in November 2002 and every four (4) years thereafter; and

(2) at the municipal election in November 2003 and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 following the election, as provided in IC 36-5-2-3. The election shall be conducted under this chapter.

(b) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall:

- (1) at the general election in November 2002 and every four (4) years thereafter; and
- (2) at the general election in November 2004 and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

(c) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall, at the general election in November 2004 and every four (4) years thereafter, elect a town clerk-treasurer and town court judge (if a town court has been established under ~~IC 33-10-1-1-3~~ **IC 33-35-1-1**) to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

SECTION 36. IC 3-11-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The election division shall have the paper ballots for President and Vice-President of the United States printed on one (1) paper ballot, in the manner prescribed by IC 3-10-4.

(b) The election division shall have the:

- (1) names of the candidates for United States Senator;
- (2) names of the candidates for state offices;
- (3) state constitutional amendment questions; and
- (4) judicial retention questions submitted under ~~IC 33-2-1-2-6;~~
IC 33-24-2 or IC 33-25-2;

printed on another paper ballot.

SECTION 37. IC 3-11-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

- (1) Federal and state offices:
 - (A) President and Vice President of the United States.
 - (B) United States Senator.
 - (C) Governor and lieutenant governor.
 - (D) Secretary of state.
 - (E) Auditor of state.

- (F) Treasurer of state.
- (G) Attorney general.
- (H) Superintendent of public instruction.
- (I) Clerk of the supreme court.
- (J) United States Representative.
- (2) Legislative offices:
 - (A) State senator.
 - (B) State representative.
- (3) Circuit offices and county judicial offices:
 - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
 - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
 - (C) Judge of the probate court.
 - (D) Judge of the county court, with each division separate, as required by ~~IC 33-10.5-4-2~~: **IC 33-30-3-3**.
 - (E) Prosecuting attorney.
 - (F) Clerk of the circuit court.
- (4) County offices:
 - (A) County auditor.
 - (B) County recorder.
 - (C) County treasurer.
 - (D) County sheriff.
 - (E) County coroner.
 - (F) County surveyor.
 - (G) County assessor.
 - (H) County commissioner.
 - (I) County council member.
- (5) Township offices:
 - (A) Township assessor.
 - (B) Township trustee.
 - (C) Township board member.
 - (D) Judge of the small claims court.
 - (E) Constable of the small claims court.
- (6) City offices:
 - (A) Mayor.

- (B) Clerk or clerk-treasurer.
- (C) Judge of the city court.
- (D) City-county council member or common council member.
- (7) Town offices:
 - (A) Clerk-treasurer.
 - (B) Judge of the town court.
 - (C) Town council member.

SECTION 38. IC 3-12-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) The statement prepared under section 9 of this chapter must contain:

- (1) the name of each candidate;
- (2) the elected offices;
- (3) the total number of votes received by each candidate;
- (4) the total number of votes received by each candidate and cast for and against each public question in each precinct; and
- (5) the total number of votes cast at the election.

(b) Notwithstanding ~~IC 33-19-6-1~~, **IC 33-37-5-1**, upon request by a candidate, the circuit court clerk shall prepare a copy of the statement for the candidate at a fee not to exceed twenty-five cents (\$0.25) per page.

SECTION 39. IC 3-12-6-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.5. Upon the filing of a petition under section 2 of this chapter, the circuit court clerk shall:

- (1) require payment of the filing fee under ~~IC 33-19~~; **IC 33-37**;
- and
- (2) assign the petition a cause number as a miscellaneous civil action.

SECTION 40. IC 3-12-8-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.5. Upon the filing of a petition under section 5 of this chapter, the circuit court clerk shall:

- (1) require payment of the filing fee under ~~IC 33-19~~; **IC 33-37**;
- and
- (2) assign the petition a cause number as a miscellaneous civil action.

SECTION 41. IC 3-13-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A vacancy in the office of justice of the supreme court, judge of the court of appeals, or judge of the tax court shall be filled as provided in ~~IC 33-2-1-4~~.

IC 33-27.

SECTION 42. IC 3-13-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) A vacancy that occurs, other than by resignation, in the office of judge of a circuit, superior, probate, or county court shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(b) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. The person who is appointed holds the office until:

- (1) the end of the unexpired term; or
- (2) a successor is elected at the next general election and qualified;

whichever occurs first. The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(c) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

- (1) ~~IC 33-5-5.1-37.1.~~ **IC 33-33-2-39.**
- (2) ~~IC 33-5-5.1-41.1.~~ **IC 33-33-2-43.**
- (3) ~~IC 33-5-29.5-39.~~ **IC 33-33-45-38.**
- (4) ~~IC 33-5-40-44.~~ **IC 33-33-71-40.**

The person who is appointed holds office for the remainder of the unexpired term.

SECTION 43. IC 3-13-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A vacancy that occurs, other than by resignation, in the office of prosecuting attorney shall be certified to the governor by the circuit court clerk of the county in which the prosecuting attorney resided.

(b) A vacancy in the office of prosecuting attorney that was last held by a person elected or selected as a candidate of a major political party of the state shall be filled by a caucus under IC 3-13-11.

(c) A vacancy in the office of prosecuting attorney not covered by subsection (b) shall be filled by the governor.

(d) The person appointed or selected holds office for the remainder of the unexpired term and until a successor is elected and qualified.

(e) If a vacancy in the office of the prosecuting attorney occurs under subsection (b), the chief deputy prosecuting attorney appointed under ~~IC 33-14-7-2~~ **IC 33-39-6-2** shall be the acting prosecuting attorney until the vacancy is filled by the caucus under IC 3-13-11.

SECTION 44. IC 3-14-1-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) A person who recklessly violates ~~IC 33-5-5.1-29.5~~ **IC 33-33-2-11** by accepting contributions that exceed the amount permitted under that section commits a Class B misdemeanor.

(b) A person described by subsection (a) is also subject to a civil penalty under IC 3-9-4-17. The county election board may assess a penalty of not more than three (3) times the amount of the contribution that exceeds the limit prescribed by ~~IC 33-5-5.1-29.5~~, **IC 33-33-2-11**, plus any investigative costs incurred and documented by the board.

SECTION 45. IC 3-14-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. In addition to the duties prescribed by ~~IC 33-14~~, **IC 33-39**, the prosecuting attorney of each circuit shall prosecute each resident of the circuit who the prosecutor believes has violated IC 3-14-1-7, IC 3-14-1-10, IC 3-14-1-13, IC 3-14-1-14, or IC 3-14-1-14.5 in any circuit of the state.

SECTION 46. IC 4-6-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) The attorney general shall ascertain the amounts paid to any person for court costs under ~~IC 33-19~~, **IC 33-37**, licenses, money unclaimed in estates or guardianships, fines, penalties, or forfeitures, or monies that escheat to the state under IC 29-1-2-1 or from any other source where the money is required to be paid to the state or to any officer in trust for the state. In all cases where an officer required to collect the money fails to do so after the cause of action in favor of the state has accrued, or fails to sue for and recover any property belonging to or which may escheat to the state, the attorney general shall institute all necessary proceedings to compel the payment of the money or recovery of the property. The payment to or collection by the attorney general of any of the funds does not render an officer liable to an action on the officer's bond by any other officer or person.

(b) The officers having the custody of the money shall report to the attorney general, upon oath or affirmation, all facts pertaining to it,

upon the attorney general's demand, in person, by deputy or assistants, or in writing.

(c) An officer who fails to render the information upon demand commits a Class C infraction.

SECTION 47. IC 4-21.5-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) Within thirty (30) days after the filing of the petition, or within further time allowed by the court or by other law, the petitioner shall transmit to the court the original or a certified copy of the agency record for judicial review of the agency action, consisting of:

- (1) any agency documents expressing the agency action;
- (2) other documents identified by the agency as having been considered by it before its action and used as a basis for its action; and
- (3) any other material described in this article as the agency record for the type of agency action at issue, subject to this section.

(b) An extension of time in which to file the record shall be granted by the court for good cause shown. Inability to obtain the record from the responsible agency within the time permitted by this section is good cause. Failure to file the record within the time permitted by this subsection, including any extension period ordered by the court, is cause for dismissal of the petition for review by the court, on its own motion, or on petition of any party of record to the proceeding.

(c) Upon a written request by the petitioner, the agency taking the action being reviewed shall prepare the agency record for the petitioner. If part of the record has been preserved without a transcript, the agency shall prepare a transcript for inclusion in the record transmitted to the court, except for portions that the parties to the judicial review proceeding stipulate to omit in accordance with subsection (e).

(d) Notwithstanding IC 5-14-3-8, the agency shall charge the petitioner with the reasonable cost of preparing any necessary copies and transcripts for transmittal to the court, unless a person files with the court, under oath and in writing, the statement described by ~~IC 33-19-3-2~~. **IC 33-37-3-2.**

(e) By stipulation of all parties to the review proceedings, the record may be shortened, summarized, or organized.

(f) The court may tax the cost of preparing transcripts and copies for the record:

- (1) against a party to the judicial review proceeding who unreasonably refuses to stipulate to shorten, summarize, or organize the record; or
- (2) in accordance with the rules governing civil actions in the courts or other law.

(g) Additions to the record concerning evidence received under section 12 of this chapter must be made as ordered by the court. The court may require or permit subsequent corrections or additions to the record.

SECTION 48. IC 5-2-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) There is created a continuing fund which shall be known as the law enforcement academy building fund. The fund consists of amounts deposited under ~~IC 33-19-7-5~~. **IC 33-37-7-9**. This fund may be used by the board to acquire for the state of Indiana land and interests in and to land, and to construct upon such land a fully equipped law enforcement academy to consist of classrooms, housing facilities, a cafeteria, firearms ranges, a driving course, and other physical facilities which are deemed necessary in the discretion of the board for the basic, inservice, and advanced training of law enforcement officers in the skills and techniques of law enforcement. Any balance of the fund that is unexpended at the end of any fiscal year shall not revert to the general fund but shall be carried forward as an appropriation for the next fiscal year. Expenditures may be made by the board for, among other things, all expenses required for land acquisition and transfer, including but not limited to personal services, appraisers fees, and the cost of acquiring any interest in land and the construction and maintenance of improvements thereon. The budget agency may, with the approval of the board and the governor, make allocations and transfers of funds appropriated by the general assembly to state agencies having jurisdiction and control over land acquired by the board for the purposes stated herein, except that such allocations and transfers shall not be made in the acquisition of land which has been declared surplus land of the state pursuant to statute. The board is hereby further authorized to acquire said land and law enforcement academy buildings by gift, donation, bequest, devise, exchange, purchase, or eminent

domain, or other means. However, any money or proceeds from gifts, bequests, grants, or other donations shall be deposited in a special donation fund which is hereby established for the purposes outlined in this section, for the use of the board to accomplish said purposes. No part of said special donation fund shall revert to the general fund of the state unless specified by the donor as a condition to his gift. All land and academy buildings, however acquired, shall become the property of the state.

(b) There is created a continuing fund which shall be known as the law enforcement training fund. The fund consists of amounts deposited under ~~IC 33-19-7-5~~ **IC 33-37-7-9**. The board is further authorized to accept gifts and grants of money, services, or property to supplement the law enforcement training fund and to use the same for any purpose consistent with the authorized uses of said fund. This fund may be used by the board for the following purposes:

- (1) Building and grounds maintenance for the law enforcement academy.
- (2) Training equipment and supplies necessary to operate the law enforcement academy.
- (3) Aid to approved law enforcement training schools certified as having met or exceeded the minimum standards established by the board.
- (4) Personal services, as authorized by the board with the approval of the governor.
- (5) Any other purpose necessary to carry out the provisions of this chapter, as determined by the board.

SECTION 49. IC 5-2-6.1-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 41. The fund consists of amounts deposited under ~~IC 33-19-7-5~~ **IC 33-37-7-9** and IC 35-50-5-3 and appropriations from the general assembly.

SECTION 50. IC 5-2-8-1, AS AMENDED BY P.L.1-2003, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) As used in this section:

- (1) "Abuse" means:
 - (A) conduct that causes bodily injury (as defined in IC 35-41-1-4) or damage to property; or
 - (B) a threat of conduct that would cause bodily injury (as defined in IC 35-41-1-4) or damage to property.

(2) "County law enforcement agency" includes university police officers appointed under IC 20-12-3.5.

(b) There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under ~~IC 33-19-8-6~~; **IC 33-37-8-6**.

(c) A county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under ~~IC 33-19-8-6 or IC 33-19-8-4~~ **IC 33-37-8-4 or IC 33-37-8-6** shall deposit each fee collected into the county law enforcement continuing education fund.

(d) Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

(e) Money in excess of one hundred dollars (\$100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

(f) To make a claim under ~~IC 33-19-8-6~~ **IC 33-37-8-6** a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(g) A law enforcement agency shall submit a claim for fees under this section in the same county fiscal year in which the fees are collected under ~~IC 33-19-5~~; **IC 33-37-4**.

(h) A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

- (1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
- (2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
- (3) Techniques for handling incidents of abuse that:

- (A) minimize the likelihood of injury to the law enforcement officer; and
 - (B) promote the safety of a victim.
 - (4) Information about the nature and extent of abuse.
 - (5) Information about the legal rights of and remedies available to victims of abuse.
 - (6) How to document and collect evidence in an abuse case.
 - (7) The legal consequences of abuse.
 - (8) The impact on children of law enforcement intervention in abuse cases.
 - (9) Services and facilities available to victims of abuse and abusers.
 - (10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
 - (11) Policies concerning arrest or release of suspects in abuse cases.
 - (12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
 - (13) Landlord-tenant concerns in abuse cases.
 - (14) The taking of an abused child into protective custody.
 - (15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.
 - (16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
 - (17) Response to a sudden, unexpected infant death.
 - (i) A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required by this section and section 2(f) of this chapter.
- SECTION 51. IC 5-2-8-2, AS AMENDED BY P.L.1-2003, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) As used in this section:
- "Abuse" has the meaning set forth in section 1(a) of this chapter.
- "City or town law enforcement agency" includes university police officers appointed under IC 20-12-3.5.
- (b) There is established in each city and in each town with a city or town court a local law enforcement continuing education program. The program is funded by amounts appropriated under ~~IC 33-19-8-4~~ **IC 33-37-8-4** and fees collected under IC 9-29-4-2, IC 9-29-11-1, and

IC 35-47-2-3.

(c) A city or town law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under ~~IC 33-19-8-4~~ **IC 33-37-8-4** or ~~IC 33-19-8-6~~ **IC 33-37-8-6** shall deposit each fee collected into the local law enforcement continuing education fund.

(d) Distribution of money in a local law enforcement continuing education fund shall be made to a city or town law enforcement agency without the necessity of first obtaining an appropriation from the fiscal body of the city or town.

(e) To make a claim under ~~IC 33-19-8-4~~ **IC 33-37-8-4** a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(f) A city or town law enforcement agency shall provide to each law enforcement officer employed by the city or town law enforcement agency continuing education concerning the following:

- (1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
- (2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
- (3) Techniques for handling incidents of abuse that:
 - (A) minimize the likelihood of injury to the law enforcement officer; and
 - (B) promote the safety of a victim.
- (4) Information about the nature and extent of abuse.
- (5) Information about the legal rights of and remedies available to victims of abuse.
- (6) How to document and collect evidence in an abuse case.
- (7) The legal consequences of abuse.
- (8) The impact on children of law enforcement intervention in abuse cases.
- (9) Services and facilities available to victims of abuse and abusers.
- (10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
- (11) Policies concerning arrest or release of suspects in abuse

cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which the child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(g) A city or town law enforcement agency may enter into an agreement with other county, city, or town law enforcement agencies to provide the continuing education required by this section and section 1(h) of this chapter.

SECTION 52. IC 5-2-8-5, AS AMENDED BY P.L.1-2003, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) There is established the state police training fund. The fund consists of amounts collected under ~~IC 33-19-5-1(b)(4); IC 33-19-5-2(b)(3); and IC 33-19-5-3(b)(4)~~ **IC 33-37-4-1(b)(4), IC 33-37-4-2(b)(3), and IC 33-37-4-3(b)(4)** on behalf of the state police department.

(b) If the state police department files a claim under ~~IC 33-19-8-4~~ **IC 33-37-8-4** or ~~IC 33-19-8-6~~ **IC 33-37-8-6** against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the state police department into the state police training fund established under this section.

(c) Claims against the state police training fund must be submitted in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars (\$100) that is unencumbered and remains in the state police training fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).

(e) As used in this subsection, "abuse" has the meaning set forth in section 1(a) of this chapter. As a part of the state police department's in-service training, the department shall provide to each law enforcement officer employed by the department continuing education

concerning the following:

- (1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
- (2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
- (3) Techniques for handling incidents of abuse that:
 - (A) minimize the likelihood of injury to the law enforcement officer; and
 - (B) promote the safety of a victim.
- (4) Information about the nature and extent of the abuse.
- (5) Information about the legal rights of and remedies available to victims of abuse.
- (6) How to document and collect evidence in an abuse case.
- (7) The legal consequences of abuse.
- (8) The impact on children of law enforcement intervention in abuse cases.
- (9) Services and facilities available to victims of abuse and abusers.
- (10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
- (11) Policies concerning arrest or release of suspects in abuse cases.
- (12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
- (13) Landlord-tenant concerns in abuse cases.
- (14) The taking of an abused child into protective custody.
- (15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.
- (16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
- (17) Response to a sudden, unexpected infant death.

The cost of providing continuing education under this subsection shall be paid from money in the state police training fund.

SECTION 53. IC 5-2-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) There is established the conservation officers training fund. The department of natural resources shall administer the fund. The fund consists of amounts

collected under ~~IC 33-19-5-1(b)(4)~~, ~~IC 33-19-5-2(b)(3)~~, and ~~IC 33-19-5-3(b)(4)~~ **IC 33-37-4-1(b)(4)**, **IC 33-37-4-2(b)(3)**, and **IC 33-37-4-3(b)(4)** on behalf of the department of natural resources.

(b) If the department of natural resources files a claim under ~~IC 33-19-8-4~~ **IC 33-37-8-4** or ~~IC 33-19-8-6~~ **IC 33-37-8-6** against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the department of natural resources into the conservation officers training fund established under this section.

(c) Claims against the conservation officers training fund must be submitted in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars (\$100) that is unencumbered and remains in the conservation officers' training fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).

SECTION 54. IC 5-2-8-8, AS AMENDED BY P.L.204-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) There is established the alcoholic beverage enforcement officers' training fund. The alcohol and tobacco commission shall administer the fund. The fund consists of amounts collected under ~~IC 33-19-5-1(b)(4)~~, ~~IC 33-19-5-2(b)(3)~~, and ~~IC 33-19-5-3(b)(4)~~ **IC 33-37-4-1(b)(4)**, **IC 33-37-4-2(b)(3)**, and **IC 33-37-4-3(b)(4)** on behalf of the alcohol and tobacco commission.

(b) If the alcohol and tobacco commission files a claim under ~~IC 33-19-8-4~~ **IC 33-37-8-4** or ~~IC 33-19-8-6~~ **IC 33-37-8-6** against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the alcohol and tobacco commission into the alcoholic beverage enforcement officers' training fund established under this section.

(c) Claims against the alcoholic beverage enforcement officers' training fund must be submitted in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars (\$100) that is unencumbered and remains in the alcoholic beverage enforcement officers' training fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).

SECTION 55. IC 5-2-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The state drug free communities fund is established to promote comprehensive alcohol and drug abuse prevention initiatives by supplementing state and federal funding for the coordination and provision of treatment, education, prevention, and criminal justice efforts. The fund consists of amounts deposited:

- (1) under ~~IC 33-19-9-4~~; **IC 33-37-9-4**; and
- (2) from any other public or private source.

SECTION 56. IC 5-2-10.1-2, AS AMENDED BY P.L.273-1999, SECTION 220, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The Indiana safe schools fund is established to do the following:

- (1) Promote school safety through the:
 - (A) purchase of equipment for the detection of firearms and other weapons;
 - (B) use of dogs trained to detect firearms, drugs, explosives, and illegal substances; and
 - (C) purchase of other equipment and materials used to enhance the safety of schools.
- (2) Combat truancy.
- (3) Provide matching grants to schools for school safe haven programs.
- (4) Provide grants for school safety and safety plans.

(b) The fund consists of amounts deposited:

- (1) under ~~IC 33-19-9-4~~; **IC 33-37-9-4**; and
- (2) from any other public or private source.

(c) The institute shall determine grant recipients from the fund with a priority on awarding grants in the following order:

- (1) A grant for a safety plan.
- (2) A safe haven grant requested under section 10 of this chapter.
- (3) A safe haven grant requested under section 7 of this chapter.

(d) Upon recommendation of the council, the institute shall establish a method for determining the maximum amount a grant recipient may receive under this section.

SECTION 57. IC 5-2-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A county drug free community fund is established in each county to promote

comprehensive local alcohol and drug abuse prevention initiatives by supplementing local funding for treatment, education, and criminal justice efforts. The fund consists of amounts deposited under ~~IC 33-19-7-1(c)~~ and ~~IC 33-19-7-4(c)~~. **IC 33-37-7-1(c), IC 33-37-7-2(c), IC 33-37-7-7(e), and IC 33-37-7-8(e).**

SECTION 58. IC 5-4-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. (a) A person elected to the office of prosecuting attorney shall execute an individual surety bond for the faithful performance of the duties of the office. The amount of the bond must be at least eight thousand five hundred dollars (\$8,500).

(b) A person elected to the office of prosecuting attorney may not take office until that person has filed a bond:

- (1) in the office of the county recorder of the county in which the person resides; and
- (2) within ten (10) days after the bond is issued.

(c) The cost of a bond shall be paid by the county. For multiple county judicial circuits, the cost shall be paid by each county in the judicial circuit in the manner provided by ~~IC 33-13-12-4~~. **IC 33-38-5-3.**

(d) A bond must be:

- (1) executed by the person elected prosecuting attorney and one
- (1) or more freehold sureties; and
- (2) payable to the state as provided in section 10 of this chapter.

(e) A bond is not void on first recovery, and suits may be brought on the bond until the penalty is exhausted.

(f) If a bond has been legally certified, any of the following have the same effect in evidence as the bond:

- (1) A copy of the bond.
- (2) A record of the bond.
- (3) A copy of a record of the bond.

(g) The county recorder of the county in which the person elected prosecuting attorney resides shall record the bond in an official bond register.

SECTION 59. IC 5-7-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. No county or township officer in this state shall, under color of the officer's office, charge, tax up, or receive, or permit to be taxed up or received, in relation to any service in or about the officer's office, any fee or sum of money except such fee

or sum of money as is plainly specified in ~~IC 33-19~~ **IC 33-37** and IC 36-2 without resort to implication.

SECTION 60. IC 5-7-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. Whenever ~~IC 33-19~~ **IC 33-37** or IC 36-2 specifies a fee or sum of money as compensation for any service, duty, or thing, the same shall be construed to be in full therefor, and it shall be unlawful to charge, tax up, or receive any further or additional sum under color of any claim or construction of law.

SECTION 61. IC 5-7-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. It shall be unlawful to tax up, charge, or receive fees or sums of money in county, township, or other public offices in this state, under color of office, as if the sums and fees allowed and fixed by ~~IC 33-19~~ **IC 33-37** and IC 36-2 are cumulative and superadditonal.

SECTION 62. IC 5-8-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior, probate, or county court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall, subject to:

- (1) ~~IC 33-5-5.1-37.1~~; **IC 33-33-2-39**;
- (2) ~~IC 33-5-5.1-41.1~~; **IC 33-33-2-43**;
- (3) ~~IC 33-5-29.5-39~~; **IC 33-33-45-38**; and
- (4) ~~IC 33-5-40-44~~; **IC 33-33-71-40**;

appoint or select a successor to fill the vacancy in office.

SECTION 63. IC 5-10-1.5-1, AS AMENDED BY P.L.2-2003, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. Each retirement plan for employees of the state or of a political subdivision shall report annually on September 1 to the public employees' retirement fund the information from the preceding fiscal year necessary for the actuary of the fund to perform an actuarial valuation of each plan. Where the director and actuary of the fund

consider it appropriate, the actuary may combine one (1) retirement plan with another or with the public employees' retirement fund for the purposes of the actuarial valuation. The retirement plans covered by this chapter are the following:

- (1) The state excise police and conservation enforcement officers' retirement plan established under IC 5-10-5.5.
- (2) The "trust fund" and "pension trust" of the state police department established under IC 10-12-2.
- (3) Each of the police pension funds established or covered under IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.
- (4) Each of the firemen's pension funds established or covered under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.
- (5) Each of the retirement funds for utility employees authorized under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.
- (6) Each county police force pension trust and trust fund authorized under IC 17-3-14 or IC 36-8.
- (7) The Indiana judges' retirement fund established under ~~IC 33-13-8~~ **IC 33-38-6**.
- (8) Each retirement program adopted by a board of a local health department as authorized under IC 16-1-4-25 (before its repeal) or IC 16-20-1-3.
- (9) Each retirement benefit program of a joint city-county health department under IC 16-1-7-16 (before its repeal).
- (10) Each pension and retirement plan adopted by the board of trustees or governing body of a county hospital as authorized under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.
- (11) Each pension or retirement plan and program for hospital personnel in certain city hospitals as authorized under IC 16-12.2-5 (before its repeal) or IC 16-23-1.
- (12) Each retirement program of the health and hospital corporation of a county as authorized under IC 16-12-21-27 (before its repeal) or IC 16-22-8-34.
- (13) Each pension plan provided by a city, town, or county housing authority as authorized under IC 36-7.
- (14) Each pension and retirement program adopted by a public transportation corporation as authorized under IC 36-9.
- (15) Each system of pensions and retirement benefits of a regional transportation authority as authorized or required by IC 36-9.

(16) Each employee pension plan adopted by the board of an airport authority under IC 8-22-3.

(17) The pension benefit paid for the national guard by the state as established under IC 10-16-7.

(18) The pension fund allowed employees of the Wabash Valley interstate commission as authorized under IC 13-5-1-3.

(19) Each system of pensions and retirement provided by a unit under IC 36-1-3.

SECTION 64. IC 5-10-1.7-1, AS AMENDED BY P.L.2-2003, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The retirement plans covered by this chapter are:

(1) The state excise police and conservation officers' retirement plan, established under IC 5-10-5.5.

(2) The public employees' retirement fund, established under IC 5-10.3-2.

(3) The trust fund and pension trust of the department of state police, established under IC 10-12-2.

(4) The Indiana state teachers' retirement fund, established under IC 21-6.1-2.

(5) The Indiana judges' retirement fund, established under ~~IC 33-13-8~~ **IC 33-38-6**.

(6) The police officers' and firefighters' pension and disability fund established under IC 36-8-8-4.

(b) As used in this chapter:

"Board" means the board of trustees of a retirement plan covered by this chapter.

SECTION 65. IC 5-10-8-1, AS AMENDED BY P.L.13-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The following definitions apply in this chapter:

(1) "Employee" means:

(A) an elected or appointed officer or official, or a full-time employee;

(B) if the individual is employed by a school corporation, a full-time or part-time employee;

(C) for a local unit public employer, a full-time or part-time employee or a person who provides personal services to the unit under contract during the contract period; or

(D) a senior judge appointed under ~~IC 33-2-1-8~~; **IC 33-24-3-7**; whose services have continued without interruption at least thirty (30) days.

(2) "Group insurance" means any of the kinds of insurance fulfilling the definitions and requirements of group insurance contained in IC 27-1.

(3) "Insurance" means insurance upon or in relation to human life in all its forms, including life insurance, health insurance, disability insurance, accident insurance, hospitalization insurance, surgery insurance, medical insurance, and supplemental medical insurance.

(4) "Local unit" includes a city, town, county, township, public library, or school corporation.

(5) "New traditional plan" means a self-insurance program established under section 7(b) of this chapter to provide health care coverage.

(6) "Public employer" means the state or a local unit, including any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of either, having a payroll in relation to persons it immediately employs, even if it is not a separate taxing unit. With respect to the legislative branch of government, "public employer" or "employer" refers to the following:

(A) The president pro tempore of the senate, with respect to former members or employees of the senate.

(B) The speaker of the house, with respect to former members or employees of the house of representatives.

(C) The legislative council, with respect to former employees of the legislative services agency.

(7) "Public employer" does not include a state educational institution (as defined under IC 20-12-0.5-1).

(8) "Retired employee" means:

(A) in the case of a public employer that participates in the public employees' retirement fund, a former employee who qualifies for a benefit under IC 5-10.3-8 or IC 5-10.2-4;

(B) in the case of a public employer that participates in the teachers' retirement fund under IC 21-6.1, a former employee who qualifies for a benefit under IC 21-6.1-5; and

(C) in the case of any other public employer, a former employee who meets the requirements established by the public employer for participation in a group insurance plan for retired employees.

(9) "Retirement date" means the date that the employee has chosen to receive retirement benefits from the employees' retirement fund.

SECTION 66. IC 5-10.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. "Employee" as used in this article includes:

- (1) an elected or appointed officer of the state and of a political subdivision;
- (2) a senior judge appointed under ~~IC 33-2-1-8~~; **IC 33-24-3-7**;
- and
- (3) a duly elected prosecuting attorney of a judicial circuit.

SECTION 67. IC 5-10.3-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) This section does not apply to:

- (1) members of the general assembly; or
- (2) employees covered by section 3 of this chapter.

(b) An employee of the state or of a participating political subdivision who:

- (1) became a full-time employee of the state or of a participating political subdivision in a covered position; and
- (2) had not become a member of the fund;

before April 1, 1988, shall on April 1, 1988, become a member of the fund unless the employee is excluded from membership under section 2 of this chapter.

(c) Any individual who becomes a full-time employee of the state or of a participating political subdivision in a covered position after March 31, 1988, becomes a member of the fund on the date the individual's employment begins unless the individual is excluded from membership under section 2 of this chapter.

(d) For the purposes of this section, "employees of the state" includes:

- (1) employees of the judicial circuits whose compensation is paid from state funds;
- (2) elected and appointed state officers;

(3) prosecuting attorneys and deputy prosecuting attorneys of the judicial circuits, whose compensation is paid in whole or in part from state funds, including participants in the prosecuting attorneys retirement fund established under ~~IC 33-14-9;~~
IC 33-39-7;

(4) employees in the classified service;

(5) employees of any state department, institution, board, commission, office, agency, court, or division of state government receiving state appropriations and having the authority to certify payrolls from appropriations or from a trust fund held by the treasurer of state or by any department;

(6) employees of any state agency which is a body politic and corporate;

(7) employees of the board of trustees of the public employees' retirement fund;

(8) persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the Secretary of Agriculture of the United States; and

(C) are excluded from coverage as federal employees by the federal Social Security program under 42 U.S.C. 410; and

(9) the directors and employees of county offices of family and children.

SECTION 68. IC 5-10.3-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The following employees may not be members of the fund:

(1) Officials of a political subdivision elected by vote of the people, unless the governing body specifically provides for the participation of locally elected officials.

(2) Employees occupying positions normally requiring performance of service of less than six hundred (600) hours during a year who:

(A) were hired before July 1, 1982; or

(B) are employed by a participating school corporation.

(3) Independent contractors or officers or employees paid wholly on a fee basis.

(4) Employees who occupy positions that are covered by other pension or retirement funds or plans, maintained in whole or in

part by appropriations by the state or a political subdivision, except:

(A) the federal Social Security program; and

(B) the prosecuting attorneys retirement fund ~~created~~ **established** by ~~IC 33-14-9~~ **IC 33-39-7-9**.

(5) Managers or employees of a license branch of the bureau of motor vehicles commission, except those persons who may be included as members under IC 9-16-4.

(6) Employees, except employees of a participating school corporation, hired after June 30, 1982, occupying positions normally requiring performance of service of less than one thousand (1,000) hours during a year.

(7) Persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the Secretary of Agriculture of the United States; and

(C) are covered by the federal Social Security program as federal employees under 42 U.S.C. 410.

(8) Members and employees of the state lottery commission.

SECTION 69. IC 6-1.1-4-32, AS AMENDED BY P.L.235-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 32. (a) As used in this section, "contract" refers to a contract entered into under this section.

(b) As used in this section, "contractor" refers to a firm that enters into a contract with the department of local government finance under this section.

(c) As used in this section, "qualifying county" means a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(d) ~~Notwithstanding sections 15 and 17 of this chapter, a township assessor in a qualifying county may not appraise property, or have property appraised, for the general reassessment of real property to be completed for the March 1, 2002, assessment date. Completion of that general reassessment in a qualifying county is instead governed by this section. The only duty of:~~

(1) a township assessor in a qualifying county; or

(2) a county assessor of a qualifying county;

with respect to that general reassessment is to provide to the

department of local government finance or the department's contractor under subsection (c) any support and information requested by the department or the contractor. This subsection expires June 30, 2004.

(c) Subject to section 33 of this chapter, the department of local government finance shall select and contract with a certified public accounting firm with expertise in the appraisal of real property to appraise property for the general reassessment of real property in a qualifying county to be completed for the March 1, 2002, assessment date. The department of local government finance may enter into additional contracts to provide software or other auxiliary services to be used for the appraisal of property for the general reassessment. The contract applies for the appraisal of land and improvements with respect to all classes of real property in the qualifying county. The contract must include:

(1) a provision requiring the appraisal firm to:

(A) prepare a detailed report of:

- (i) expenditures made after July 1, 1999, and before the date of the report from the qualifying county's reassessment fund under section 28 of this chapter (repealed); and
- (ii) the balance in the reassessment fund as of the date of the report; and

(B) file the report with:

- (i) the legislative body of the qualifying county;
- (ii) the prosecuting attorney of the qualifying county;
- (iii) the department of local government finance; and
- (iv) the attorney general;

(2) a fixed date by which the appraisal firm must complete all responsibilities under the contract;

(3) subject to subsection (t), a provision requiring the appraisal firm to use the land values determined for the qualifying county under section 13.6 of this chapter;

(4) a penalty clause under which the amount to be paid for appraisal services is decreased for failure to complete specified services within the specified time;

(5) a provision requiring the appraisal firm to make periodic reports to the department of local government finance;

(6) a provision stipulating the manner in which, and the time intervals at which, the periodic reports referred to in subdivision

- (5) are to be made;
- (7) a precise stipulation of what service or services are to be provided;
- (8) a provision requiring the appraisal firm to deliver a report of the assessed value of each parcel in a township in the qualifying county to the department of local government finance; and
- (9) any other provisions required by the department of local government finance.

After December 31, 2001, the department of local government finance has all the powers and duties of the state board of tax commissioners provided under a contract entered into under this subsection (as effective before January 1, 2002) before January 1, 2002. The contract is valid to the same extent as if it were entered into by the department of local government finance. However, a reference in the contract to the state board of tax commissioners shall be treated as a reference to the department of local government finance. The contract shall be treated for all purposes, including the application of IC 33-3-5-2.5, as the contract of the department of local government finance. If the department of local government finance terminates a contract before completion of the work described in this subsection, the department shall contract for completion of the work as promptly as possible under IC 5-22-6. This subsection expires June 30, 2004.

(f) (d) At least one (1) time each month, the contractors that will make physical visits to the site of real property for reassessment purposes shall publish a notice under IC 5-3-1 describing the areas that are scheduled to be visited within the next thirty (30) days and explaining the purposes of the visit. The notice shall be published in a way to promote understanding of the purposes of the visit in the affected areas. After receiving the report of assessed values from the appraisal firm acting under a contract described in subsection (e), the department of local government finance shall give notice to the taxpayer and the county assessor, by mail, of the amount of the reassessment. The notice of reassessment:

- (1) is subject to appeal by the taxpayer under section 34 of this chapter; and
 - (2) must include a statement of the taxpayer's rights under sections 33 and 34 of this chapter.
- (g) The department of local government finance shall mail the

notice required by subsection (f) within ninety (90) days after the department receives the report for a parcel from the professional appraisal firm. This subsection expires June 30, 2004.

(h) The qualifying county shall pay the cost of any contract under this section which shall be without appropriation from the county property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under a contract. However, the maximum amount that the qualifying county is obligated to pay for all contracts entered into under subsection (c) for the general reassessment of real property in the qualifying county to be completed for the March 1, 2002, assessment date is twenty-five million five hundred thousand dollars (\$25,500,000). Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

- (1) submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the work performed to the department of local government finance for review;
- (2) obtains from the department of local government finance:
 - (A) approval of the form and amount of the bill; and
 - (B) a certification that the billed goods and services billed for payment have been received and comply with the contract; and
- (3) files with the county auditor of the qualifying county:
 - (A) a duplicate copy of the bill submitted to the department of local government finance;
 - (B) the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and
 - (C) the certification provided by the department of local government finance that indicates that the goods and services billed for payment have been received and comply with the contract.

An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the qualifying county. The county

executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection. This subsection expires June 30, 2004.

(i) (e) Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the department of local government finance under this section:

- (1) The commissioner of the Indiana department of administration.
- (2) The director of the budget agency.
- (3) The attorney general.
- (4) The governor.

(j) (f) With respect to a general reassessment of real property to be completed under section 4 of this chapter for an assessment date after the March 1, 2002, assessment date, the department of local government finance shall initiate a review with respect to the real property in a qualifying county or a township in a qualifying county, or a portion of the real property in a qualifying county or a township in a qualifying county. The department of local government finance may contract to have the review performed by an appraisal firm. The department of local government finance or its contractor shall determine for the real property under consideration and for the qualifying county or township the variance between:

- (1) the total assessed valuation of the real property within the qualifying county or township; and
- (2) the total assessed valuation that would result if the real

property within the qualifying county or township were valued in the manner provided by law.

~~(k)~~ (g) If:

- (1) the variance determined under subsection (j) exceeds ten percent (10%); and
- (2) the department of local government finance determines after holding hearings on the matter that a special reassessment should be conducted;

the department shall contract for a special reassessment by an appraisal firm to correct the valuation of the property.

~~(h)~~ (h) If the variance determined under subsection ~~(j)~~ (f) is ten percent (10%) or less, the department of local government finance shall determine whether to correct the valuation of the property under:

- (1) sections 9 and 10 of this chapter; or
- (2) IC 6-1.1-14-10 and IC 6-1.1-14-11.

~~(m)~~ (i) The department of local government finance shall give notice by mail to a taxpayer of a hearing concerning the department's intent to cause the taxpayer's property to be reassessed under this section. The time fixed for the hearing must be at least ten (10) days after the day the notice is mailed. The department of local government finance may conduct a single hearing under this section with respect to multiple properties. The notice must state:

- (1) the time of the hearing;
- (2) the location of the hearing; and
- (3) that the purpose of the hearing is to hear taxpayers' comments and objections with respect to the department of local government finance's intent to reassess property under this chapter.

~~(n)~~ (j) If the department of local government finance determines after the hearing that property should be reassessed under this section, the department shall:

- (1) cause the property to be reassessed under this section;
- (2) mail a certified notice of its final determination to the county auditor of the qualifying county in which the property is located; and
- (3) notify the taxpayer by mail of its final determination.

~~(o)~~ (k) A reassessment may be made under this section only if the notice of the final determination under subsection ~~(m)~~ (i) is given to the taxpayer within the same period prescribed in IC 6-1.1-9-3 or

IC 6-1.1-9-4.

~~(p)~~ (l) If the department of local government finance contracts for a special reassessment of property under this section, the qualifying county shall pay the bill, without appropriation, from the county property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under a contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

- (1) submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the work performed to the department of local government finance for review;
- (2) obtains from the department of local government finance:
 - (A) approval of the form and amount of the bill; and
 - (B) a certification that the billed goods and services billed for payment have been received and comply with the contract; and
- (3) files with the county auditor of the qualifying county:
 - (A) a duplicate copy of the bill submitted to the department of local government finance;
 - (B) the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and
 - (C) the certification provided by the department of local government finance that indicates that the goods and services billed for payment have been received and comply with the contract.

An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the qualifying county. The county executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after completion of the publication requirements under IC 36-2-6-3. Upon allowance of the

claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

~~(q)~~ **(m)** A qualifying official (as defined in ~~IC 33-3-5-2.5(c)~~) **IC 33-26-8-3** shall provide information requested in writing by the department of local government finance or the department's contractor under this section not later than seven (7) days after receipt of the written request from the department or the contractor. If a qualifying official (as defined in ~~IC 33-3-5-2.5(c)~~) **IC 33-26-8-3** fails to provide the requested information within the time permitted in this subsection, the department of local government finance or the department's contractor may seek an order of the tax court under ~~IC 33-3-5-2.5~~ **IC 33-26-8** for production of the information.

~~(r)~~ **(n)** The provisions of this section are severable in the manner provided in IC 1-1-1-8(b).

~~(s)~~ A contract entered into under subsection (c) is subject to this subsection: A contractor shall use the land values determined for the qualifying county under section ~~13.6~~ of this chapter to the extent that the contractor finds that the land values reflect the true tax value of land; as determined under the statutes and the rules of the department of local government finance. If the contractor finds that the land values determined for the qualifying county under section ~~13.6~~ of this chapter do not reflect the true tax value of land; the contractor shall determine land values for the qualifying county that reflect the true tax value of land; as determined under the statutes and the rules of the department of local government finance. The land values determined by the contractor shall be used to the same extent as if the land values had been determined under section ~~13.6~~ of this chapter. The contractor shall notify the county assessor and the township assessors in the qualifying county of the land values as modified under this subsection. This subsection expires June 30, 2004.

~~(t)~~ A contractor acting under a contract under subsection (c) may

notify the department of local government finance if:

- (1) the county auditor fails to:
 - (A) certify the bill;
 - (B) publish the claim;
 - (C) submit the claim to the county executive; or
 - (D) issue a warrant or check;

as required in subsection (h) at the first opportunity the county auditor is legally permitted to do so;

(2) the county executive fails to allow the claim as required in subsection (h) at the first opportunity the county executive is legally permitted to do so; or

(3) a person or entity authorized to act on behalf of the county takes or fails to take an action; including failure to request an appropriation; and that action or failure to act delays or halts the process under this section for payment of a bill submitted by a contractor under subsection (h):

This subsection expires June 30, 2004.

(u) The department of local government finance; upon receiving notice under subsection (t) from the contractor, shall:

(1) verify the accuracy of the contractor's assertion in the notice that:

- (A) a failure occurred as described in subsection (t)(1) or (t)(2); or
- (B) a person or entity acted or failed to act as described in subsection (t)(3); and

(2) provide to the treasurer of state the department of local government finance's approval under subsection (h)(2)(A) of the bill with respect to which the contractor gave notice under subsection (t):

This subsection expires June 30, 2004.

(v) Upon receipt of the approval of the department of local government finance under subsection (u); the treasurer of state shall pay the contractor the amount of the bill approved by the department of local government finance from money in the possession of the state that would otherwise be available for distribution to the qualifying county; including distributions from the property tax replacement fund or distributions of admissions taxes or wagering taxes. This subsection expires June 30, 2004.

(w) The treasurer of state shall withhold from the part attributable to the county of the next distribution to the county treasurer under IC 4-33-12-6; IC 4-33-13-5; IC 6-1.1-21-4(b); or another law the amount of any payment made by the treasurer of state to the contractor under subsection (v). Money shall be deducted first from money payable under IC 6-1.1-21-4(b) and then from all other funds payable to the qualifying county. This subsection expires June 30, 2004.

(x) Compliance with subsections (t) through (w) shall be treated as compliance with IC 5-11-10. This subsection expires June 30, 2004.

(y) IC 5-11-10-1.6(d) applies to the treasurer of state with respect to the payment made in compliance with subsections (t) through (w). This subsection and subsections (t) through (x) shall be interpreted liberally so that the state shall, to the extent legally valid, ensure that the contractual obligations of a county under this section are paid. Nothing in this subsection or subsections (t) through (x) shall be construed to create a debt of the state. This subsection expires June 30, 2004.

(z) (o) This section expires December 31, 2006.

SECTION 70. IC 6-1.1-8-36, AS AMENDED BY P.L.90-2002, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 36. (a) A public utility company shall pay any taxes which are based upon the department of local government finance's assessment of distributable property regardless of whether or not an appeal of the assessment is pending. However, the collection of the taxes may be enjoined pending an original tax appeal under IC 33-3-5. **IC 33-26.**

(b) The department of local government finance shall reassess distributable property and shall certify the reassessment to the county auditor of each county in which the property is taxable if:

(1) the Indiana board:

(A) sets aside the department's original assessment and orders the department to reassess the distributable property; or

(B) refers the matter to the department under section 32 of this chapter with instructions to make another assessment; and

(2) the decision of:

(A) the Indiana board is not appealed to the tax court; or

(B) the tax court in which the matter was referred to the department under section 32 of this chapter is not appealed to the supreme court.

(c) If the tax court sets aside the Indiana board's final determination and the Indiana board reassesses distributable property, the Indiana board shall certify the reassessment to the county auditor of each county in which the property is taxable if the decision of the tax court is not appealed to the supreme court.

SECTION 71. IC 6-1.1-18.5-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.1. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a county, city, or town to supplemental juror fees adopted under ~~IC 33-19-1-4~~, **IC 33-37-10-1**, to the extent provided in subsection (b).

(b) For purposes of determining the property tax levy limit imposed on a county, city, or town under section 3 of this chapter, the county, city, or town's ad valorem property tax levy for a calendar year does not include an amount equal to:

- (1) the average annual expenditures for nonsupplemental juror fees under ~~IC 33-19-1-4~~, **IC 33-37-10-1**, using the five (5) most recent years for which expenditure amounts are available; multiplied by
- (2) the percentage increase in juror fees that is attributable to supplemental juror fees under the most recent ordinance adopted under ~~IC 33-19-1-4~~; **IC 33-37-10-1**.

SECTION 72. IC 6-8.1-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) Before an original tax appeal is filed with the tax court under ~~IC 33-3-5~~, **IC 33-26**, the commissioner may settle any tax liability dispute if a substantial doubt exists as to:

- (1) the constitutionality of the tax under the Constitution of the State of Indiana;
- (2) the right to impose the tax;
- (3) the correct amount of tax due;
- (4) the collectibility of the tax; or
- (5) whether the taxpayer is a resident or nonresident of Indiana.

(b) After an original tax appeal is filed with the tax court under ~~IC 33-3-5~~, **IC 33-26**, and notwithstanding IC 4-6-2-11, the commissioner may settle a tax liability dispute with an amount in contention of twenty-five thousand dollars (\$25,000) or less.

(c) Notwithstanding IC 6-8.1-7-1(a), the terms of a settlement under

subsection (b) are available for public inspection.

SECTION 73. IC 6-8.1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department. The amount of the assessment is considered a tax payment not made by the due date and is subject to IC 6-8.1-10 concerning the imposition of penalties and interest. The department shall send the person a notice of the proposed assessment through the United States mail.

(b) If the person has a surety bond guaranteeing payment of the tax for which the proposed assessment is made, the department shall furnish a copy of the proposed assessment to the surety. The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.

(c) The notice shall state that the person has sixty (60) days from the date the notice is mailed to pay the assessment or to file a written protest. If the person files a protest and requires a hearing on the protest, the department shall:

- (1) set the hearing at the department's earliest convenient time; and
- (2) notify the person by United States mail of the time, date, and location of the hearing.

(d) The department may hold the hearing at the location of its choice within Indiana if that location complies with IC 6-8.1-3-8.5.

(e) No later than sixty (60) days after conducting a hearing on a protest, or after making a decision on a protest when no hearing is requested, the department shall issue a letter of findings and shall send a copy of the letter through the United States mail to the person who filed the protest and to the person's surety, if the surety was notified of the proposed assessment under subsection (a). The department may continue the hearing until a later date if the taxpayer presents additional information at the hearing or the taxpayer requests an opportunity to present additional information after the hearing.

(f) A person that disagrees with a decision in a letter of finding may

request a rehearing not more than thirty (30) days after the date on which the letter of finding is issued by the department. The department shall consider the request and may grant the rehearing if the department reasonably believes that a rehearing would be in the best interests of the taxpayer and the state.

(g) If a person disagrees with a decision in a letter of finding, the person may appeal the decision to the tax court. However, the tax court does not have jurisdiction to hear an appeal that is filed more than one hundred eighty (180) days after the date on which the letter of finding is issued by the department.

(h) The tax court shall hear an appeal under subsection (g) de novo and without a jury. The tax court may do the following:

- (1) Uphold or deny any part of the assessment that is appealed.
- (2) Assess the court costs in a manner that the court believes to be equitable.
- (3) Enjoin the collection of a listed tax under ~~IC 33-3-5-11~~.
IC 33-26-6-2.

(i) The department shall demand payment, as provided in IC 6-8.1-8-2(a), of any part of the proposed tax assessment, interest, and penalties that it finds owing because:

- (1) the person failed to properly respond within the sixty (60) day period;
- (2) the person requested a hearing but failed to appear at that hearing; or
- (3) after consideration of the evidence presented in the protest or hearing, the department finds that the person still owes tax.

(j) The department shall make the demand for payment in the manner provided in IC 6-8.1-8-2.

(k) Subsection (a) does not apply to a motor carrier fuel tax return.

SECTION 74. IC 6-8.1-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f) and (g), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

- (1) The due date of the return.
- (2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

(b) When the department receives a claim for refund, the department shall consider the claim for refund and may hold a hearing on the claim for refund to obtain and consider additional evidence. After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision.

(c) If the person disagrees with any part of the department's decision, ~~he the person~~ may appeal the decision, regardless of whether or not he protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal suit, if:

- (1) the appeal is filed more than three (3) years after the date the claim for refund was filed with the department;
- (2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or
- (3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.

(d) The tax court shall hear the appeal de novo and without a jury, and after the hearing may order or deny any part of the appealed refund. The court may assess the court costs in any manner that it feels is equitable. The court may enjoin the collection of any of the listed taxes under ~~IC 33-3-5-11~~. **IC 33-26-6-2**. The court may also allow a refund of taxes, interest, and penalties that have been paid to and collected by the department.

(e) With respect to the motor vehicle excise tax, this section applies only to penalties and interest paid on assessments of the motor vehicle

excise tax. Any other overpayment of the motor vehicle excise tax is subject to IC 6-6-5.

(f) If a taxpayer's federal income tax liability for a taxable year is modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

- (1) the date determined under subsection (a); or
- (2) the date that is six (6) months after the date on which the taxpayer is notified of the modification by the Internal Revenue Service.

(g) If an agreement to extend the assessment time period is entered into under IC 6-8.1-5-2(e), the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended.

SECTION 75. IC 6-8.1-9-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.2. Notwithstanding section 1(d) of this chapter, if a taxpayer prevails in a complaint that is placed on the small claims docket under ~~IC 33-3-5-12~~, **IC 33-26-5**, the tax court shall order the refund of the taxpayer's filing fee under ~~IC 33-3-5-16~~ **IC 33-26-9-1** from the state general fund.

SECTION 76. IC 8-23-2-15, AS AMENDED BY P.L.132-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) As used in this section, "highway work zone" means an area where:

- (1) highway construction, reconstruction, or maintenance is actually occurring; and
- (2) notice is posted in accordance with the:
 - (A) Indiana Manual on Uniform Traffic Control Devices; or
 - (B) Indiana Work Site Traffic Control Manual;

to indicate that highway construction, reconstruction, or maintenance is occurring.

(b) The department may contract with the state police department or local law enforcement agencies to hire off duty police officers to patrol highway work zones. The duties of a police officer who is hired under this section:

- (1) are limited to those duties that the police officer normally performs while on active duty; and
- (2) do not include the duties of a:

- (A) flagman; or
- (B) security officer.

(c) The department shall use the money transferred to the department under ~~IC 33-19-9-4(6)~~ **IC 33-37-9-4(6)** to pay the costs of hiring off duty police officers to perform the duties described in subsection (b).

(d) All money transferred to the department under ~~IC 33-19-9-4(6)~~ **IC 33-37-9-4(6)** is annually appropriated to pay off duty police officers to perform the duties described in subsection (b).

SECTION 77. IC 9-27-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) The alcohol and drug countermeasures fund is established for the purpose of funding the programs and activities developed and conducted under section 4(8) of this chapter. The fund shall be administered by the office. The fund consists of deposits made under ~~IC 33-19-~~ **IC 33-37-**.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) At least sixty percent (60%) of the money in the alcohol and drug countermeasures fund shall be used to supplement law enforcement agencies in their efforts to apprehend persons who operate vehicles while intoxicated. Money received by a law enforcement agency from the fund may not be used to replace other funding of law enforcement services.

SECTION 78. IC 9-30-3-12, AS AMENDED BY P.L.225-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) If during any twelve (12) month period a person has committed moving traffic violations for which the person has:

- (1) been convicted of at least two (2) traffic misdemeanors;
 - (2) had at least two (2) traffic judgments entered against the person; or
 - (3) been convicted of at least one (1) traffic misdemeanor and has had at least one (1) traffic judgment entered against the person;
- the bureau may require the person to attend and satisfactorily complete a defensive driving school program. The person shall pay all applicable

fees required by the bureau.

(b) This subsection applies to an individual who holds a probationary license under IC 9-24-11-3 or is less than eighteen (18) years of age. An individual is required to attend and satisfactorily complete a defensive driving school program if either of the following occurs at least twice or if both of the following have occurred:

- (1) The individual has been convicted of a moving traffic offense (as defined in section 14(a) of this chapter), other than an offense that solely involves motor vehicle equipment.
- (2) The individual has been the operator of a motor vehicle involved in an accident for which a report is required to be filed under IC 9-26-2.

The individual shall pay all applicable fees required by the bureau.

(c) The bureau may suspend the driving license of any person who:

- (1) fails to attend a defensive driving school program; or
- (2) fails to satisfactorily complete a defensive driving school program;

as required by this section.

(d) Notwithstanding ~~IC 33-19-5-2~~, **IC 33-37-4-2**, any court may suspend one-half (1/2) of each applicable court cost for which a person is liable due to a traffic violation if the person enrolls in and completes a defensive driving school or a similar school conducted by an agency of the state or local government.

SECTION 79. IC 9-30-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The circuit court:

- (1) shall administer the program established under section 2 of this chapter;
- (2) shall submit claims under ~~IC 33-19-8-6~~ **IC 33-37-8-6** for the disbursement of funds; and
- (3) may enter into contracts with individuals, firms, and corporations to provide the treatment described by section 2 of this chapter.

SECTION 80. IC 10-13-3-13, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. As used in this chapter, "no contact order" means an order that prohibits a person from having direct or indirect contact with another person and that is issued under any of the following:

- (1) IC 31-32-13.
- (2) IC 31-34-17.
- (3) IC 31-34-20.
- (4) IC 31-37-16.
- (5) IC 31-37-19-1.
- (6) IC 31-37-19-6.
- (7) ~~IC 33-14-1-7~~; **IC 33-39-1-8**.
- (8) IC 35-33-8-3.2.
- (9) IC 35-38-2-2.3.

SECTION 81. IC 11-12-3.5-2, AS ADDED BY P.L.224-2003, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The community corrections advisory board shall develop a forensic diversion program plan to do the following:

- (1) Establish and provide procedures for the early identification of serious mental or addictive disorders among detainees, including initial intake and assessment programs for individuals who are arrested.
- (2) Permit an individual who is not charged with a crime involving serious bodily injury to participate in an arraignment or postarraignment diversion program.
- (3) Provide a program of community based services for an individual eligible for deferred prosecution under ~~IC 33-14-1-7~~ **IC 33-39-1-8** or IC 12-23-5-7.
- (4) Permit an individual participating in a forensic diversion program to discontinue participation sixty (60) days after the individual's primary caregiver, physician, or counselor has released the individual from all care except for basic monitoring.

SECTION 82. IC 11-13-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established ~~under IC 33-13-14-2~~; **by IC 33-33-9-3**.

(b) The board shall adopt rules consistent with this chapter, prescribing minimum standards concerning:

- (1) educational and occupational qualifications for employment as a probation officer;
- (2) compensation of probation officers;

(3) protection of probation records and disclosure of information contained in those records; and

(4) presentence investigation reports.

(c) The conference shall prepare a written examination to be used in establishing lists of persons eligible for appointment as probation officers. The conference shall prescribe the qualifications for entrance to the examination and establish a minimum passing score and rules for the administration of the examination after obtaining recommendations on these matters from the probation standards and practices advisory committee. The examination must be offered at least once every other month.

(d) The conference shall, by its rules, establish an effective date for the minimum standards and written examination for probation officers.

(e) The conference shall provide probation departments with training and technical assistance for:

(1) the implementation and management of probation case classification; and

(2) the development and use of workload information.

The staff of the Indiana judicial center may include a probation case management coordinator and probation case management assistant.

(f) The conference shall, in cooperation with the division of family and children and the department of education, provide probation departments with training and technical assistance relating to special education services and programs that may be available for delinquent children or children in need of services. The subjects addressed by the training and technical assistance must include the following:

(1) Eligibility standards.

(2) Testing requirements and procedures.

(3) Procedures and requirements for placement in programs provided by school corporations or special education cooperatives under IC 20-1-6.

(4) Procedures and requirements for placement in residential special education institutions or facilities under IC 20-1-6-19 and 511 IAC 7-12-5.

(5) Development and implementation of individual education programs for eligible children in:

(A) accordance with applicable requirements of state and federal laws and rules; and

(B) in coordination with:

- (i) individual case plans; and
- (ii) informal adjustment programs or dispositional decrees entered by courts having juvenile jurisdiction under IC 31-34 and IC 31-37.

(6) Sources of federal, state, and local funding that is or may be available to support special education programs for children for whom proceedings have been initiated under IC 31-34 and IC 31-37.

Training for probation departments may be provided jointly with training provided to child welfare caseworkers relating to the same subject matter.

(g) The conference shall make recommendations to courts and probation departments concerning:

- (1) selection, training, distribution, and removal of probation officers;
- (2) methods and procedure for the administration of probation, including investigation, supervision, workloads, recordkeeping, and reporting; and
- (3) use of citizen volunteers and public and private agencies.

(h) The conference may delegate any of the functions described in this section to the advisory committee or the Indiana judicial center.

SECTION 83. IC 12-17-2-18, AS AMENDED BY P.L.138-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) The bureau shall make the agreements necessary for the effective administration of the plan with local governmental officials within Indiana. The bureau shall contract with:

- (1) a prosecuting attorney; or
- (2) a private attorney if the bureau determines that a reasonable contract cannot be entered into with a prosecuting attorney and the determination is approved by at least two-thirds (2/3) of the Indiana child custody and support advisory committee (established ~~under IC 33-2-1-10-1~~; **by IC 33-24-11-1**);

in each judicial circuit to undertake activities required to be performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1, before its repeal)

or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(b) The hiring of an attorney by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(c) Subject to section 18.5 of this chapter, a prosecuting attorney with which the bureau contracts under subsection (a) may contract with a private organization to provide child support enforcement services.

(d) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(e) At the time that an application for child support services is made, the applicant must be informed that:

- (1) an attorney who provides services for the child support bureau is the attorney for the state and is not providing legal representation to the applicant; and
- (2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

SECTION 84. IC 12-17-2-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 30. The director of the division shall adopt the rules necessary to implement Title IV-D of the federal Social Security Act and this chapter. The division shall send a copy of each proposed or adopted rule to each member of the **Indiana** child custody and support advisory committee established by ~~IC 33-2-1-10~~ **IC 33-24-11-1** not later than ten (10) days after proposal or adoption.

SECTION 85. IC 12-17-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A county child advocacy fund is established in each county for the purpose of assisting the county in developing interdisciplinary responses to child abuse and

neglect situations. The fund consists of amounts deposited under ~~IC 33-19-7-1(d)~~: **IC 33-37-7-1(d) and IC 33-37-7-2(d)**.

SECTION 86. IC 12-18-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The sources of the fund include the following:

(1) Amounts deposited under ~~IC 33-19-7-5~~: **IC 33-37-7-9**.

(2) Amounts distributed from the state user fee fund under ~~IC 33-19-9-4(a)(7)~~: **IC 33-37-9-4(a)(7)**.

SECTION 87. IC 12-23-14-13, AS AMENDED BY P.L.113-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established ~~under IC 33-13-14-2~~: **by IC 33-38-9-3**.

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards ~~will be~~ **are** required for persons employed in court drug and alcohol programs.

(c) A program established under this chapter is subject to the regulatory powers of the Indiana judicial center established by ~~IC 33-13-14-2~~: **IC 33-38-9-4**.

(d) With regard to alcohol and drug services programs established under this chapter, the Indiana judicial center may do the following:

(1) Ensure that programs comply with rules adopted under this section and applicable federal regulations.

(2) Revoke the authorization of a program upon a determination that the program does not comply with rules adopted under this section and applicable federal regulations.

(3) Make agreements and contracts with:

(A) another department, authority, or agency of the state;

(B) another state;

(C) the federal government;

(D) a state supported or private university; or

(E) a public or private agency;

to effectuate the purposes of this chapter.

(4) Directly, or by contract, approve and certify programs established under this chapter.

(5) Require, as a condition of operation, that each program created or funded under this chapter be certified according to

rules established by the Indiana judicial center.

(6) Adopt rules to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of alcohol and drug services programs.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by or to provide services to a court alcohol and drug services program. If the board adopts qualifications under this subsection:

(1) the board shall establish an effective date after which any person employed by a court alcohol and drug services program must meet the minimum qualifications adopted under this subsection; and

(2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:

(A) by a certified court alcohol and drug program before the effective date; or

(B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to the court alcohol and drug program advisory committee or the Indiana judicial center.

SECTION 88. IC 12-23-14-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) The costs of an alcohol and drug services program established under this chapter shall be paid out of the city general fund or the county general fund and may be supplemented by payment from the user fee fund upon appropriation made under ~~IC 33-19-8~~: **IC 33-37-8**.

(b) The court shall fix the compensation of employees and contractors.

SECTION 89. IC 12-23-14-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) The Indiana judicial center drug and alcohol programs fund is established for the purpose of administering, certifying, and supporting alcohol and drug services programs under this chapter. The fund shall be administered by the Indiana judicial center established ~~under IC 33-13-14-2~~: **by IC 33-38-9-4**.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same

manner as other public funds may be invested.

(c) Money in the fund at the end of the fiscal year does not revert to the state general fund.

SECTION 90. IC 12-23-14.5-3, AS AMENDED BY P.L.133-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Except as provided in subsection (b), a drug court established under this chapter and accompanying services are open only to individuals over whom the court that established the drug court has jurisdiction.

(b) A drug court that does not otherwise have felony jurisdiction may accept an eligible individual who is referred to the drug court from another court within the county if the following criteria are met:

(1) The drug court returns the case to the court that made the referral for appropriate proceedings when the person has successfully completed drug court or the person's participation in the drug court has been terminated.

(2) If the drug court is a city or town court, the person selected as judge for the court is required to be an attorney under ~~IC 33-10-1-5-7.~~ **IC 33-35-5-7.**

SECTION 91. IC 12-23-14.5-9, AS AMENDED BY P.L.133-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana under ~~IC 33-13-14-2.~~ **IC 33-38-9-3.**

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards will be required for a person employed by a drug court.

(c) A drug court established under this chapter is subject to the regulatory powers of the Indiana judicial center under ~~IC 33-13-14-7.~~ **IC 33-38-9-9.**

(d) With regard to drug courts established under this chapter, the Indiana judicial center may do the following:

(1) Ensure that drug courts comply with rules adopted under this section and applicable federal regulations.

(2) Certify drug courts established under this chapter.

(3) Revoke the certification of a drug court upon a determination that the drug court does not comply with rules adopted under this section and applicable federal regulations.

(4) Make agreements and contracts with:

- (A) another department, authority, or agency of the state;
- (B) another state;
- (C) the federal government;
- (D) a state supported or private university; or
- (E) a public or private agency;

to implement this chapter.

(5) Require as a condition of operation that each drug court created or funded under this chapter be certified according to rules established by the Indiana judicial center.

(6) Adopt rules to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of drug courts.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by a drug court; however, any contract service provider must be licensed by the state or approved by the judicial center. If the board adopts qualifications under this subsection:

(1) the board shall establish an effective date after which a person employed by a drug court must meet the minimum qualifications adopted under this subsection; and

(2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:

- (A) by a certified drug court before the effective date; or
- (B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to the court alcohol and drug program advisory committee or the Indiana judicial center.

SECTION 92. IC 12-23-14.5-10, AS ADDED BY P.L.168-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) The costs of a drug court established under this chapter may, at the discretion of the fiscal body of the unit, be supplemented out of the city general fund or the county general fund and may be further supplemented by payment from the user fee fund upon appropriation made under ~~IC 33-19-8~~ **IC 33-37-8**.

(b) The court shall fix the compensation of employees of the drug court.

SECTION 93. IC 12-23-14.5-12, AS ADDED BY P.L.168-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) A court that has established a drug court under this chapter may require an eligible individual to pay a fee for drug court services.

(b) If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for drug court services.

(c) The fee for drug court services may not exceed five hundred dollars (\$500) per referral to the drug court.

(d) The clerk of the court shall collect fees under this section. The clerk shall transmit the fees within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under ~~IC 33-19-8~~: **IC 33-37-8**.

SECTION 94. IC 12-26-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Except as provided in sections 3 and 4 of this chapter, the following Indiana courts have jurisdiction over a proceeding under this article:

(1) A court having probate jurisdiction.

(2) A superior court in a county in which the circuit court has exclusive probate jurisdiction.

(3) A mental health division of a superior court to the extent the mental health division has jurisdiction under ~~IC 33-5.1-2-4~~:

IC 33-33-49-9.

SECTION 95. IC 14-22-3-5, AS AMENDED BY P.L.186-2003, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) Except as provided in subsection (b), the money in the fund shall be used for the following purposes:

(1) Protecting and propagating game, fish, and birds in Indiana.

(2) Paying the operational expenses of the following:

(A) The fish and wildlife division.

(B) The law enforcement division.

(3) Maintaining the automated point of sale licensing system implemented under IC 14-22-12-7.5. However, the amount that may be used under this subdivision during a fiscal year may not exceed the amount transferred on July 1 of that fiscal year under IC 14-22-4-6.

(b) Money in the fund that is attributable to money deposited under ~~IC 33-19-7-5~~ **IC 33-37-7-9** shall be used to administer the following:

(1) The turn in a poacher program established under IC 14-9-8-23.

(2) The reward system established under the program.

SECTION 96. IC 15-3-4.6-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.1. In addition to its powers and duties in section 4 of this chapter, the weed control board may establish a marijuana eradication program to eliminate and destroy wild marijuana plants within the county. The program is funded by amounts appropriated by the county under ~~IC 33-19-8~~ **IC 33-37-8** and by amounts appropriated from the county general fund.

SECTION 97. IC 16-19-13-6, AS AMENDED BY P.L.1-2002, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) As used in this section, "rape crisis center" means an organization that provides a full continuum of services, including hotlines, victim advocacy, and supportive services, from the onset of need for services through the completion of healing, to victims of sexual assault.

(b) The sexual assault victims assistance fund is established. The office shall administer the fund to provide financial assistance to rape crisis centers. Money in the fund must be distributed to a statewide nonprofit corporation whose primary purpose is pursuing the eradication of sexual violence in Indiana. The nonprofit corporation shall allocate money in the fund among the rape crisis centers. The fund consists of:

(1) amounts transferred to the fund from sexual assault victims assistance fees collected under ~~IC 33-19-6-21~~; **IC 33-37-5-23**.

(2) any appropriations to the fund from other sources;

(3) grants, gifts, and donations intended for deposit in the fund; and

(4) interest that accrues from money in the fund.

(c) The expenses of administering the fund shall be paid from money in the fund. The office shall designate not more than ten percent (10%) of the appropriation made each year to the nonprofit corporation for program administration.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert

to the state general fund.

SECTION 98. IC 25-1-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. This chapter applies to the imposition and collection of fees under the following:

IC 14-24-10

IC 16-19-5-2

IC 25-30-1-17

~~IC 33-16-2-1.~~

IC 33-42-2-1.

SECTION 99. IC 25-18-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) The clerk of the circuit court, upon receiving an application for a license, shall examine the application to determine if it is in due form. If the clerk shall be satisfied that the application is in due form and that the proposed sale is of the character which the applicant desires to advertise and conduct, ~~he the clerk~~ shall issue a license to the applicant authorizing him to advertise and conduct a sale of the particular kind mentioned in the application upon the payment of a fee as provided in ~~IC 33-17-14-3.~~ **IC 33-32-5-2.**

(b) Such license may be issued by the clerk in typewritten letter form or in printed form addressed to the applicant, one (1) copy being retained by the clerk, and shall set forth the following information and statements:

DISTRESS SALE LICENSE

In accordance with and subject to IC 25-18-1, (name of applicant) is hereby licensed to conduct a distress sale for the following purpose:

Going out of business sale ☐

Removal of business sale ☐

Fire or altered goods sale ☐

This license shall apply only to the sale of goods reported in the inventory filed with the application for this license, which goods are to be sold by the licensee at (place of sale _____), in _____, Indiana. The effective date of this license shall be _____, _____, and this license shall expire sixty (60) days from said date, Sundays and holidays excluded.

Dated this ____ day of _____, _____.

CLERK.

SECTION 100. IC 29-3-2-1, AS AMENDED BY P.L.217-2001,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) This article applies to the following:

- (1) The business affairs, physical person, and property of every incapacitated person and minor residing in Indiana.
- (2) Property located in Indiana of every incapacitated person and minor residing outside Indiana.
- (3) Property of every incapacitated person or minor, regardless of where the property is located, coming into the control of a fiduciary who is subject to the laws of Indiana.

(b) Except as provided in subsections (c) through (e), the court has exclusive original jurisdiction over all matters concerning the following:

- (1) Guardians.
- (2) Protective proceedings under IC 29-3-4.

(c) A juvenile court has exclusive original jurisdiction over matters relating to the following:

- (1) Minors described in IC 31-30-1-1.
- (2) Matters related to guardians of the person and guardianships of the person described in IC 31-30-1-1(10).

(d) Except as provided in subsection (c), courts with child custody jurisdiction under:

- (1) IC 31-14-10;
- (2) IC 31-17-2-1; or
- (3) IC 31-17-3-3;

have original and continuing jurisdiction over custody matters relating to minors.

(e) A mental health division of a superior court under ~~IC 33-5-1-2~~ **IC 33-33-49** has jurisdiction concurrent with the court in mental health proceedings under IC 12-26 relating to guardianship and protective orders.

(f) Jurisdiction under this section is not dependent on issuance or service of summons.

SECTION 101. IC 31-9-2-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 50. "Guardian ad litem", for purposes of IC 31-15-6, IC 31-16-3, IC 31-19-16, IC 31-19-16.5, and the juvenile law, means an attorney, a volunteer, or an employee of a county program designated under ~~IC 33-2-1-7-3-1~~ **IC 33-24-6-4** who is appointed by a court to:

- (1) represent and protect the best interests of a child; and
 - (2) provide the child with services requested by the court, including:
 - (A) researching;
 - (B) examining;
 - (C) advocating;
 - (D) facilitating; and
 - (E) monitoring;
- the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

SECTION 102. IC 31-16-20-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. The proceedings that are transferred shall be docketed as other civil matters are docketed, and a civil costs fee as provided in ~~IC 33-19-5-4~~ **IC 33-37-4-4** shall be collected.

SECTION 103. IC 31-16-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Whenever in any court proceeding an order is in force for:

- (1) the support and maintenance of the other party to the proceeding; or
- (2) the support and maintenance of a child;

the individual required to pay the support shall pay the support.

(b) The clerk shall collect from the individual, in addition to the payments, the fee specified in ~~IC 33-19-6-5~~ **IC 33-37-5-6**.

(c) The clerk may collect any unpaid fee in a proceeding for contempt.

SECTION 104. IC 31-30-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Except as provided in ~~IC 33-5-29.5-4~~, ~~IC 33-5-35.1-4~~, **IC 33-33-45-6** and section 8 of this chapter, the juvenile law does not apply to the following:

- (1) A child at least sixteen (16) years of age who allegedly committed a violation of a traffic law, the violation of which is a misdemeanor, unless the violation is an offense under IC 9-30-5.
- (2) A child who is alleged to have committed a violation of a statute defining an infraction, except as provided under IC 7.1-5-7.

(3) A child who is alleged to have committed a violation of an ordinance.

(4) A child who:

(A) is alleged to have committed an act that would be a crime if committed by an adult; and

(B) has previously been waived under IC 31-30-3 (or IC 31-6-2-4 before its repeal) to a court having misdemeanor or felony jurisdiction.

SECTION 105. IC 31-30-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The juvenile division of the Marion superior court established under ~~IC 33-5-1-2~~ **IC 33-33-49** has exclusive jurisdiction over a child who:

(1) has been taken into custody in Marion County; and

(2) has allegedly committed an act that would be a misdemeanor traffic offense if committed by an adult.

SECTION 106. IC 31-30-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. A circuit court has concurrent original jurisdiction with the juvenile court, including the probate court described in ~~IC 33-8-2-10~~, **IC 33-31-1-9(b)**, for the purpose of establishing the paternity of a child in a proceeding under:

(1) IC 31-18;

(2) IC 31-1.5 (before its repeal); or

(3) IC 31-2-1 (before its repeal);

to enforce a duty of support.

SECTION 107. IC 31-31-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The fees in juvenile court proceedings are set under ~~IC 33-19-5-3~~; **IC 33-37-4-3**.

SECTION 108. IC 31-31-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. An adult who is convicted of an offense in the juvenile court is liable for costs under ~~IC 33-19-5-1~~; **IC 33-37-4-1**.

SECTION 109. IC 31-31-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The judge of the juvenile court may appoint one (1) or more full-time magistrates under ~~IC 33-4-7~~; **IC 33-23-5**.

SECTION 110. IC 31-31-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. The judge of:

(1) a juvenile court; or

(2) a probate court under ~~IC 33-8-2~~; **IC 33-31-1**;
may appoint one (1) or more part-time juvenile court referees.

SECTION 111. IC 31-31-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The judge of:

(1) a juvenile court; or

(2) a probate court under ~~IC 33-8-2~~; **IC 33-31-1**;
may appoint one (1) or more part-time juvenile court referees.

SECTION 112. IC 31-34-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The juvenile court may order each child who participates in a program of informal adjustment or the child's parents to pay an informal adjustment program fee of:

(1) at least five dollars (\$5); but

(2) not more than fifteen dollars (\$15);

for each month that the child participates in the program instead of the court cost fees prescribed by ~~IC 33-19-5-3~~; **IC 33-37-4-3**.

SECTION 113. IC 31-34-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The probation department for the juvenile court shall:

(1) collect the informal adjustment program fee set by section 8 of this chapter; and

(2) transfer the collected informal adjustment program fees to the county auditor not later than thirty (30) days after the fees are collected.

(b) The county auditor shall deposit the fees in the county user fee fund established by ~~IC 33-19-8-5~~; **IC 33-37-8-5**.

SECTION 114. IC 31-37-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. The juvenile court may order each child who participates in a program of informal adjustment or the child's parents to pay an informal adjustment program fee of:

(1) at least five dollars (\$5); but

(2) not more than fifteen dollars (\$15);

for each month that the child participates in the program instead of the court cost fees prescribed by ~~IC 33-19-5-3~~; **IC 33-37-4-3**.

SECTION 115. IC 31-37-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) The probation department for the juvenile court shall do the following:

(1) Collect the informal adjustment program fee set under section 9 of this chapter; and

(2) Transfer the collected informal adjustment program fees to the county auditor not later than thirty (30) days after the fees are collected.

(b) The county auditor shall deposit the fees in the county user fee fund established by ~~IC 33-19-8-5~~; **IC 33-37-8-5**.

SECTION 116. IC 31-40-2-1, AS AMENDED BY P.L.277-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Subject to IC 31-40-1-3, a juvenile court may order each delinquent child who receives supervision under IC 31-37-19 or the child's parent, guardian, or custodian to pay to either the probation department or the clerk of the court:

(1) an initial probation user's fee of at least twenty-five dollars (\$25) but not more than one hundred dollars (\$100);

(2) a probation user's fee of at least ten dollars (\$10) but not more than twenty-five dollars (\$25) for each month the child receives supervision; and

(3) an administrative fee of one hundred dollars (\$100) if the delinquent child is supervised by a juvenile probation officer.

(b) If a clerk of a court collects a probation user's fee, the clerk:

(1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under ~~IC 33-19-6-1.5~~; **IC 33-37-5-2**; and

(2) if requested to do so by the county auditor, city fiscal officer, or town fiscal officer under clause (A), (B), or (C), transfer not more than three percent (3%) of the fee to the:

(A) county auditor who shall deposit the money transferred under this subdivision into the county general fund;

(B) city general fund when requested by the city fiscal officer; or

(C) town general fund when requested by the town fiscal officer.

(c) The probation department or clerk shall collect the administrative fee under subsection (a)(3) before collecting any other fee under subsection (a). The probation department or the clerk shall deposit the probation user's fees and the administrative fees paid under

subsection (a) into the county supplemental juvenile probation services fund.

(d) In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.

(e) The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to the probation department's account, the probation department may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the probation department is required to collect under subsection (a).

(f) The probation department shall deposit the credit card service fees collected under subsection (e) into the county supplemental juvenile probation services fund. These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 117. IC 32-22-1-3, AS ADDED BY P.L.2-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. Any person who is:

- (1) less than eighteen (18) years of age; and
- (2) married to a person who is at least eighteen (18) years of age; may convey, mortgage, or agree to convey any interest in real estate or may make any contract concerning the interest, with the consent of the circuit, superior, or probate court of the county where the person resides, upon payment of the fee required under ~~IC 33-19-5-4.~~ **IC 33-37-4-4.**

SECTION 118. IC 32-29-7-3, AS ADDED BY P.L.2-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) In a proceeding for the foreclosure of a mortgage executed on real estate, process may not issue for the execution of a judgment or decree of sale for a period of three (3) months after the filing of a complaint in the proceeding. However:

- (1) the period shall be:

(A) twelve (12) months in a proceeding for the foreclosure of a mortgage executed before January 1, 1958; and

(B) six (6) months in a proceeding for the foreclosure of a mortgage executed after December 31, 1957, but before July 1, 1975; and

(2) if the court finds that the mortgaged real estate is residential real estate and has been abandoned, a judgment or decree of sale may be executed on the date the judgment of foreclosure or decree of sale is entered, regardless of the date the mortgage is executed.

(b) A judgment and decree in a proceeding to foreclose a mortgage that is entered by a court having jurisdiction may be filed with the clerk in any county as provided in ~~IC 33-17-2-3~~. **IC 33-32-3-2**. After the period set forth in subsection (a) expires, a person who may enforce the judgment and decree may file a praecipe with the clerk in any county where the judgment and decree is filed, and the clerk shall promptly issue and certify to the sheriff of that county a copy of the judgment and decree under the seal of the court.

(c) Upon receiving a certified judgment under subsection (b), the sheriff shall, subject to section 4 of this chapter, sell the mortgaged premises or as much of the mortgaged premises as necessary to satisfy the judgment, interest, and costs at public auction at the office of the sheriff or at another location that is reasonably likely to attract higher competitive bids. The sheriff shall schedule the date and time of the sheriff's sale for a time certain between the hours of 10 a.m. and 4 p.m. on any day of the week except Sunday.

(d) Before selling mortgaged property, the sheriff must advertise the sale by publication once each week for three (3) successive weeks in a daily or weekly newspaper of general circulation. The sheriff shall publish the advertisement in at least one (1) newspaper published and circulated in each county where the real estate is situated. The first publication shall be made at least thirty (30) days before the date of sale. At the time of placing the first advertisement by publication, the sheriff shall also serve a copy of the written or printed notice of sale upon each owner of the real estate. Service of the written notice shall be made as provided in the Indiana Rules of Trial Procedure governing service of process upon a person. The sheriff shall charge a fee of ten dollars (\$10) to one (1) owner and three dollars (\$3) to each additional

owner for service of written notice under this subsection. The fee is:

- (1) a cost of the proceeding;
- (2) to be collected as other costs of the proceeding are collected;
- and
- (3) to be deposited in the county general fund for appropriation for operating expenses of the sheriff's department.

(e) The sheriff also shall post written or printed notices of the sale in at least three (3) public places in each township in which the real estate is situated and at the door of the courthouse of each county in which the real estate is located.

(f) If the sheriff is unable to procure the publication of a notice within the county, the sheriff may dispense with publication. However, the sheriff shall state that the sheriff was not able to procure the publication and explain the reason why publication was not possible.

(g) Notices under subsections (d) and (e) must contain a statement, for informational purposes only, of the location of each property by street address, if any, or other common description of the property other than legal description. A misstatement in the informational statement under this subsection does not invalidate an otherwise valid sale.

SECTION 119. IC 32-29-7-6, AS ADDED BY P.L.2-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) If the mortgaged real estate is located in more than one (1) county:

- (1) the court of any county the mortgaged real estate is located in has jurisdiction of an action for the foreclosure of the mortgage;
- and
- (2) all the real estate shall be sold in the county where the action is brought, unless the court orders otherwise.

(b) A judgment and decree granted by a court or a judge in an action for the foreclosure of the mortgaged real estate shall be recorded in the lis pendens record kept in the office of the clerk of each county where the real estate is located, unless the judgment and decree is filed with the clerk in the county as provided in ~~IC 33-17-2-3~~. **IC 33-32-3-2.**

SECTION 120. IC 34-7-4-2, AS AMENDED BY P.L.2-2002, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Statutes outside IC 34 providing causes of action or procedures include the following:

- (1) IC 4-21.5-5 (Judicial review of administrative agency actions).

- (2) IC 22-3-4 (Worker's compensation administration and procedures).
- (3) IC 22-4-17 (Unemployment compensation system, employee's claims for benefits).
- (4) IC 22-4-32 (Unemployment compensation system, employer's appeal process).
- (5) IC 22-9 (Civil rights actions).
- (6) IC 31-14 (Paternity).
- (7) IC 31-15 (Dissolution of marriage and legal separation).
- (8) IC 31-16 (Support of children and other dependants).
- (9) IC 31-17 (Custody and visitation).
- (10) IC 31-19 (Adoption).
- (11) IC 32-27-2, IC 32-30-1, IC 32-30-2, IC 32-30-2.1, IC 32-30-2, IC 32-30-4, IC 32-30-9, IC 32-30-10, IC 32-30-12, IC 32-30-13, and IC 32-30-14 (Real Property).
- (12) ~~IC 33-1-3~~ **IC 33-43-4** (Attorney Liens).

SECTION 121. IC 34-26-5-18, AS ADDED BY P.L.133-2002, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. The following orders are required to be entered into the Indiana data and communication system (IDACS) by a county sheriff or local law enforcement agency:

- (1) A no contact order issued under IC 31-32-13 in a juvenile case.
- (2) A no contact order issued under IC 31-34-20 in a child in need of services (CHINS) case.
- (3) A no contact order issued under IC 31-34-25 in a CHINS case.
- (4) A no contact order issued under IC 31-37-19 in a delinquency case.
- (5) A no contact order issued under IC 31-37-25 in a delinquency case.
- (6) A no contact order issued under ~~IC 33-14-1-7~~ **IC 33-39-1-8** in a criminal case.
- (7) An order for protection issued under this chapter.
- (8) A workplace violence restraining order issued under IC 34-26-6.
- (9) A no contact order issued under IC 35-33-8-3.2 in a criminal case.
- (10) A no contact order issued under IC 35-38-2-2.3 in a criminal

case.

SECTION 122. IC 34-28-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The clerk shall collect the fee provided in ~~IC 33-19-5-4~~. **IC 33-37-4-4**. However, ~~no~~ a fee may **not** be collected if the petitioner is a resident of Indiana.

SECTION 123. IC 34-28-5-1, AS AMENDED BY P.L.98-2000, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

- (1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and
- (2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(f) The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

- (1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;
- (2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the

prosecuting attorney or the attorney for the municipal corporation in accordance with ~~IC 33-19-5-2(e)~~; **IC 33-37-4-2(e)**;

(3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) the defendant in the action agrees to pay court costs of twenty-five dollars (\$25) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110); and

(5) the agreement is filed in the court in which the action is brought.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

SECTION 124. IC 34-28-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The violations clerk or deputy violations clerk shall:

(1) accept:

(A) written appearances;

(B) waivers of trial;

(C) admissions of violation;

(D) declarations of nolo contendere for moving traffic violations;

(E) payments of judgments (including costs) in traffic violation cases; and

(F) deferral agreements made under section 1(f) of this chapter (or IC 34-4-32-1(f) before its repeal) and deferral program fees prescribed under ~~IC 33-19-5-2(e)~~; **IC 33-37-4-2(e)**;

(2) issue receipts and account for any judgments (including costs) collected; and

(3) pay the judgments (including costs) collected to the appropriate unit of government as provided by law.

SECTION 125. IC 34-30-2-141 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 141. ~~IC 33-2-3-1-2~~

IC 33-24-10-5 (Concerning a person who transmits a sworn or written statement for an investigation, hearing, or other proceeding by the disciplinary commission of the supreme court).

SECTION 126. IC 34-30-2-142 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 142. ~~IC 33-2-3-1-3~~ **IC 33-24-10-6** (Concerning executive secretary, employees, hearing officers and commissioners of the disciplinary commission of the supreme court).

SECTION 127. IC 34-30-2-143 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 143. ~~IC 33-2-1-4-15~~ **IC 33-27-2-9** (Concerning the commissioners, employees, and staff of the judicial nominating commission for any act or statement relevant to the evaluation of a candidate).

SECTION 128. IC 34-30-2-144 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 144. ~~IC 33-2-1-4-16~~ **IC 33-27-2-10** (Concerning a person or organization for providing certain information, assistance, or testimony to the judicial nominating commission).

SECTION 129. IC 34-30-2-144.5, AS ADDED BY P.L.98-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 144.5. ~~IC 33-17-1-4~~ **IC 33-32-4-8** (Concerning the personal liability of circuit court clerks for dishonored checks).

SECTION 130. IC 34-30-2-145 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 145. ~~IC 33-20-5-8~~ **IC 33-44-5-8** (Concerning an attorney for depositing money in an interest-bearing attorney trust account).

SECTION 131. IC 34-30-2-146 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 146. ~~IC 33-20-6-10~~ **IC 33-44-6-10** (Concerning depository financial institutions for certain actions concerning attorney trust accounts).

SECTION 132. IC 34-35-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Expenses to be paid under section 1 of this chapter include the following:

- (1) The expense of keeping the prisoner, if any.
- (2) The expense of transporting the prisoner to or from any penal institution.
- (3) Any extraordinary expense for safekeeping the prisoner.
- (4) The fee set by the venue court under ~~IC 33-9-11-5~~

IC 33-40-2-5 for pauper counsel, if counsel was appointed by that court.

(5) The expense of any mileage, meals, lodging, and per diems paid for or to jurors.

(6) The per diems paid jury commissioners for drawing any special venire.

(7) The sum of five dollars (\$5) for each day or part of a day a bailiff is engaged in assisting the court in the trial of the cause.

(8) The sum of eight dollars (\$8) for each day or part of a day an official court reporter takes evidence or testimony before the judge or jury concerning the cause.

(9) The sum of ten dollars (\$10) per day for each day of trial for use of facilities and utilities.

(10) The sum of five dollars (\$5) for notifying the jury not to attend court after having been summoned in any cause.

(11) The amount of telephone or telegraph communications made by the court or authorized by it.

(12) The per diem allowed by law to the clerk of the court for attending court.

SECTION 133. IC 34-35-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. If any of the amounts specified in section 2 of this chapter are paid by any party against whom costs are taxed under ~~IC 33-19-4-3~~, **IC 33-37-4-8**, the amount paid shall be refunded to the county of origin.

SECTION 134. IC 34-35-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. The clerks of the courts issuing and recording the transcript shall tax as additional costs, to be paid by the judgment debtor, the fees taxed in similar matters as provided by ~~IC 33-19~~; **IC 33-37**.

SECTION 135. IC 34-46-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29. ~~IC 33-2.1-5-3 and IC 33-2.1-5-4~~ **IC 33-38-13-10 and IC 33-38-13-11** (Concerning papers filed with and testimony before the commission on judicial qualifications).

SECTION 136. IC 34-46-2-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 30. ~~IC 33-2.1-6-6 and 33-2.1-6-7~~ **IC 33-38-14-12 and IC 33-38-14-13** (Concerning papers filed with and testimony before the commission on judicial

qualifications).

SECTION 137. IC 34-46-2-30.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 30.4. ~~IC 33-5-40-53~~ **IC 33-33-71-49** (Concerning papers filed and testimony before the commission on judicial qualifications for St. Joseph Superior Court).

SECTION 138. IC 34-57-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. This chapter applies to the following disputes:

- (1) A criminal offense that a prosecuting attorney has referred to a community dispute resolution center under a diversion program under ~~IC 33-14-1-7~~. **IC 33-39-1-8.**
- (2) A civil action that has been filed and referred by the court to a dispute resolution program for alternative dispute resolution under IC 34-57-4 (or IC 34-4-2 before its repeal).
- (3) Civil disputes that do not involve an insurance claim, in which the parties voluntarily submit to community dispute resolution without filing an action in court.

SECTION 139. IC 35-33-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) Prior to the completion of the initial hearing, the judicial officer shall determine whether a person who requests assigned counsel is indigent. If the person is found to be indigent, the judicial officer shall assign counsel to ~~him~~. **the person.**

(b) If jurisdiction over an indigent defendant is transferred to another court, the receiving court shall assign counsel immediately upon acquiring jurisdiction over the defendant.

(c) If the court finds that the person is able to pay part of the cost of representation by the assigned counsel, the court shall order the person to pay the following:

- (1) For a felony action, a fee of one hundred dollars (\$100).
- (2) For a misdemeanor action, a fee of fifty dollars (\$50).

The clerk of the court shall deposit fees collected under this subsection in the county's supplemental public defender services fund established under ~~IC 33-9-11.5-1~~. **IC 33-40-3-1.**

(d) The court may review the finding of indigency at any time during the proceedings.

SECTION 140. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2003, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2004]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

- (1) Require the defendant to:
 - (A) execute a bail bond with sufficient solvent sureties;
 - (B) deposit cash or securities in an amount equal to the bail;
 - (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail; or
 - (D) post a real estate bond.
- (2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:
 - (A) Fines, costs, fees, and restitution as ordered by the court.
 - (B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).
 - (C) In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

- (3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.
- (4) Require the defendant to refrain from any direct or indirect

contact with an individual.

(5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under ~~IC 33-9-11.5~~. **IC 33-40-3.**

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed, or the defendant is acquitted or convicted of the charges.

(d) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day.

(e) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court

administration with the clerk.

SECTION 141. IC 35-33-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) Upon a showing of good cause, the state or the defendant may be granted an alteration or revocation of bail by application to the court before which the proceeding is pending. In reviewing a motion for alteration or revocation of bail, credible hearsay evidence is admissible to establish good cause.

(b) When the state presents additional:

(1) evidence relevant to a high risk of nonappearance, based on the factors set forth in section 4(b) of this chapter; or

(2) clear and convincing evidence:

(A) of the factors described in ~~IC 33-14-10-6(1)(A)~~ and ~~IC 33-14-10-6(1)(B)~~; **IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B)**; or

(B) that the defendant otherwise poses a risk to the physical safety of another person or the community;

the court may increase bail.

(c) When the defendant presents additional evidence of substantial mitigating factors, based on the factors set forth in section 4(b) of this chapter, which reasonably suggests that the defendant recognizes the court's authority to bring ~~him~~ **the defendant** to trial, the court may reduce bail. However, the court may not reduce bail if the court finds by clear and convincing evidence that the factors described in ~~IC 33-14-10-6(1)(A) and IC 33-14-10-6(1)(B)~~ **IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B)** exist or that the defendant otherwise poses a risk to the physical safety of another person or the community.

(d) The court may revoke bail or an order for release on personal recognizance upon clear and convincing proof by the state that:

(1) while admitted to bail the defendant:

(A) or ~~his~~ **the defendant's** agent threatened or intimidated a victim, prospective witnesses, or jurors concerning the pending criminal proceeding or any other matter;

(B) or ~~his~~ **the defendant's** agent attempted to conceal or destroy evidence relating to the pending criminal proceeding;

(C) violated any condition of ~~his~~ **the defendant's** current release order;

(D) failed to appear before the court as ordered at any critical

stage of the proceedings; or

(E) committed a felony or a Class A misdemeanor that demonstrates instability and a disdain for the court's authority to bring **him the defendant** to trial;

(2) the factors described in ~~IC 33-14-10-6(1)(A) and IC 33-14-10-6(1)(B)~~ **IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B)** exist or that the defendant otherwise poses a risk to the physical safety of another person or the community; or

(3) a combination of the factors described in subdivisions (1) and (2) exists.

SECTION 142. IC 35-33.5-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. Within twenty-eight (28) days after the termination of a warrant or an extension, or the denial of an application for a warrant or an extension, the court to which application for the warrant or an extension was made shall submit a report to the executive director of the division of state court administration (~~IC 33-2-1-7-1~~) (**IC 33-24-6-1**) containing the following information:

- (1) The fact that a warrant or an extension was applied for.
- (2) The type of warrant or extension applied for.
- (3) The fact that the application for a warrant or an extension was granted, modified, or denied.
- (4) The duration authorized for interception by the warrant and the number and duration of any extensions.
- (5) The designated offense for which the warrant or extension was issued or applied for.
- (6) The identity of the persons who applied for the warrant or extension.
- (7) The nature and location of the place or facility from which communications were to be intercepted.
- (8) The reasons for withholding notice under IC 35-33.5-4-3, if the notice was withheld.

SECTION 143. IC 35-33.5-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) If a court grants a warrant under this article, the prosecuting attorney shall apply to the court of appeals for an ex parte de novo review of the issuing court's decision. Issuance of the warrant is subject to automatic review and shall be given priority over all other cases. The prosecuting attorney is

entitled to expedited review of the issuance of the warrant under rules adopted by the supreme court. Notwithstanding ~~IC 33-2-1-2-2(d); IC 33-25-1-5~~, the chief judge of the court of appeals shall assign these cases for review to a district other than the district where the circuit or superior court that granted the warrant is located.

(b) In the review, the court of appeals shall review the reasons for the issuance of the warrant and determine whether the requirements of this article have been met.

(c) The court of appeals may affirm, modify, or overrule the order of the court to which the application was made. The court of appeals may not increase the authority for interception beyond that requested in the application.

(d) A warrant must be stayed until the court of appeals completes the review.

(e) Issuance of an extension is not subject to automatic review under this section.

SECTION 144. IC 35-34-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The jurors on a grand jury and one (1) alternate shall be drawn, selected, and impaneled by the procedure set out in ~~IC 33-4-5; IC 33-4-5.5; or IC 33-4-5.6.~~ **IC 33-28-4 or IC 33-28-6.**

(b) Whenever the court finds that the original panel was not selected in substantial conformity with the requirements of law for the selection of the panel, the court shall discharge the panel and summon another panel.

(c) Whenever the court finds that a grand juror:

- (1) is disqualified from service under law;
- (2) is incapable of performing the juror's duties because of bias or prejudice;
- (3) is guilty of misconduct in the performance of the juror's duties that might impair the proper functioning of the grand jury;
- (4) is under the age of eighteen (18) years;
- (5) is not a resident of the county;
- (6) is an alien;
- (7) is a mentally incompetent person;
- (8) is a witness for the prosecution;
- (9) has such a state of mind in reference to a target that the juror cannot act impartially and without prejudice to the substantial

rights of that person;

(10) holds a juror's place on the grand jury by reason of the corruption of the officer who selected and impaneled the grand jury; or

(11) has requested or otherwise caused any officer or an officer's deputy to place the juror upon the grand jury;

the court shall refuse to swear that grand juror or, if the juror has been sworn, shall discharge that grand juror and swear another grand juror.

(d) After a grand jury has been impaneled, the court that called the grand jury shall appoint one (1) of the grand jurors as foreman and one (1) as clerk. During any absence of the foreman or clerk, the grand jury shall select one (1) of their number to act as foreman or clerk. The clerk shall keep minutes of the grand jury proceedings. The court shall supply a means for recording the evidence presented before the grand jury and all of the other proceedings that occur before the grand jury, except for the deliberations and voting of the grand jury and other discussions when the members of the grand jury are the only persons present in the grand jury room. The evidence and proceedings shall be recorded in the same manner as evidence and proceedings are recorded in the court that impaneled the grand jury. When ordered by the court, a transcript or a copy of the recording shall be prepared and supplied to the requesting party. If the transcript is supplied, it shall be at the cost of the party requesting it. If a copy of the recording is supplied, the party requesting it is responsible for the actual cost of reproduction. If a transcript has already been prepared, the requesting party is responsible for the actual cost of obtaining the copy. If the court finds the requesting party is an indigent defendant, the cost of the transcript or copy of the recording supplied to the defendant shall be paid by the county.

(e) The following oath must be administered to the grand jury:

"You, and each of you, do solemnly swear or affirm that you will diligently inquire and make true presentment of all offenses committed or triable within this county, of which you have or can obtain legal evidence; that you will present no person through malice, hatred, ill will, nor leave any unrepresented through fear, favor, or affection, or for any reward, or the promise or hope thereof, but in all your indictments you will present the truth, the whole truth, and nothing but the truth; that you will not disclose

any evidence given or proceeding had before the grand jury; that you will keep secret whatever you or any other grand juror may have said or in what manner you or any other grand juror may have voted on a matter before the grand jury."

(f) The court shall provide a printed copy of the provisions of this chapter to the grand jury upon the request of any member of the grand jury. In addition, the court shall give the grand jurors any instructions relating to the proper performance of their duties that the court considers necessary.

(g) If a member of the grand jury has reason to believe that an offense has been committed which is triable in the county, the member may report this information to fellow jurors, who may then investigate the alleged offense.

SECTION 145. IC 35-34-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) The judge of any court having criminal jurisdiction may, upon due cause shown by petition of the prosecuting attorney of the judicial circuit, order the clerk of the courts, or jury commissioner (as defined in ~~IC 33-4-5.5-4(b)~~, **IC 33-28-6-4**) to draw the names of competent persons to be summoned to serve on a special grand jury, which shall serve in addition to the grand jury regularly summoned and convened pursuant to law.

(b) A special grand jury has the powers and duties of a grand jury prescribed by law.

(c) The members of the special grand jury serve terms of three (3) months or more, as requested by the prosecuting attorney. The terms of members of a special grand jury shall be extended for the same period of time and in the same manner in which the terms of grand jury members may be extended under section 13 of this chapter.

SECTION 146. IC 35-34-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. When names of grand jurors are ordered drawn to be summoned under section 14 of this chapter, the judge shall specify the number of names to be drawn, and shall enter an order in sufficient time before the grand jury session to permit counsel to know and investigate the panel of special grand jurors. The order of names listed in the panel and called for service and entered in the order book of the court shall be the same as that provided in ~~IC 33-4-5-9 or IC 33-4-5.5~~, **IC 33-28-4-9 or IC 33-28-6**, as may be

applicable. The clerk shall issue venires or summonses for such jurors as the courts may direct. The sheriff or bailiff shall then call the special grand jurors to the jury box in the same order as that in which their names were drawn from the box and certified thereto.

SECTION 147. IC 35-36-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) In a criminal prosecution, if a change of venue has been taken from the county in which the prosecution originated, the prosecuting attorney from the original county shall prosecute the case in the trial court to which the case was venued. The trial court to which the case was venued may appoint a prosecuting attorney to assist on the case.

(b) In a case described in subsection (a), if the defendant is entitled to pauper counsel, the original trial court shall furnish pauper counsel. The trial court to which the case was venued may remove from the case the pauper counsel furnished by the original trial court, and:

- (1) request the original trial court to furnish another pauper counsel;
- (2) appoint pauper counsel of its choice; or
- (3) request the public defender of the state of Indiana to provide counsel under ~~IC 33-9-11~~ **IC 33-40-2**.

(c) The original trial court shall determine the amount of the fee and the expenses incurred by the pauper counsel and shall order the appropriate reimbursement to be paid to him by the county in which the prosecution originated. The fees and expenses of a public defender appointed under ~~IC 33-9-11~~ **IC 33-40-2** shall be paid in accordance with that chapter.

SECTION 148. IC 35-37-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) If a judge of a court of record in any state which has made provision for the commanding of persons within that state to attend and testify in this state certifies under the seal of the court that:

- (1) there is a criminal prosecution pending in the court, or that a grand jury investigation has commenced or is about to commence;
- (2) a person being within this state is a material witness in the prosecution or grand jury investigation; and
- (3) the person's presence will be required for a specified number of days;

upon presentation of the certificate to a judge of a court of record with

jurisdiction to try felony cases in the county in which the person is located, the judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

(b) If at the hearing the judge determines that:

- (1) the witness is material and necessary;
- (2) it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state; and
- (3) the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, will give to the person protection from arrest, and the service of civil and criminal process;

the judge shall issue a subpoena, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the subpoena. In any hearing the certificate is prima facie evidence of all the facts stated in it.

(c) If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure the attendance of the witness in the requesting state, the judge may, in lieu of notification of the hearing, direct that the witness be immediately brought before the judge for the hearing. If the judge is satisfied of the desirability of the custody and delivery, the judge may, in lieu of issuing a subpoena, order that the witness be immediately taken into custody and delivered to an officer of the requesting state. For this determination, the certificate is prima facie proof of such desirability.

(d) If a witness subpoenaed as provided in this section is paid or tendered a sum for expenses and fails without good cause to attend and testify as directed in the subpoena, the witness shall be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state.

(e) The amount of the payment for expenses under subsection (d) of this section and section 4(b) of this chapter is set out in ~~IC 33-19-1-5.~~
IC 33-37-10-2.

SECTION 149. IC 35-37-5-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If a person in any state that has made provision for commanding persons within its borders to attend and testify in criminal prosecutions in this state or grand jury investigations commenced or about to commence in this state is a material witness in a prosecution pending in a court of record in this state or in a grand jury investigation which has commenced or is about to commence in this state, a judge of the court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. This certificate shall be presented to a judge of a court of record in the county of the state in which the witness is found.

(b) If the witness is summoned to attend and testify in this state, the witness shall be tendered a sum for expenses equal to the amount provided under ~~IC 33-19-1-5~~. **IC 33-37-10-2**. The fees shall be a proper charge upon the county in which the criminal prosecution or grand jury investigation is pending.

(c) A witness who has appeared in accordance with the provisions of the subpoena shall not be required to remain within this state for a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court.

(d) If the witness fails without good cause to attend and testify as directed in the subpoena, the witness shall be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state.

SECTION 150. IC 35-38-2-1, AS AMENDED BY P.L.277-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Whenever it places a person on probation, the court shall:

- (1) specify in the record the conditions of the probation; and
- (2) advise the person that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(b) In addition, if the person was convicted of a felony and is placed on probation, the court shall order the person to pay to the probation department the user's fee prescribed under subsection (c). If the person

was convicted of a misdemeanor, the court may order the person to pay the user's fee prescribed under subsection (d). The court may:

- (1) modify the conditions (except a fee payment may only be modified as provided in section 1.7(b) of this chapter); or
- (2) terminate the probation;

at any time. If the person commits an additional crime, the court may revoke the probation.

(c) If a clerk of a court collects a probation user's fee, the clerk:

- (1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under ~~IC 33-19-6-1.5~~; **IC 33-37-5-2**; and
- (2) if requested to do so by the county auditor, city fiscal officer, or town fiscal officer under clause (A), (B), or (C), transfer not more than three percent (3%) of the fee to the:

- (A) county auditor, who shall deposit the money transferred under this subdivision into the county general fund;
- (B) city general fund when requested by the city fiscal officer;
- or
- (C) town general fund when requested by the town fiscal officer.

(d) In addition to any other conditions of probation, the court shall order each person convicted of a felony to pay:

- (1) not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) as an initial probation user's fee;
- (2) a monthly probation user's fee of not less than fifteen dollars (\$15) nor more than thirty dollars (\$30) for each month that the person remains on probation;
- (3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter;
- (4) an alcohol abuse deterrent fee and a medical fee set by the court under IC 9-30-9-8, if the court has referred the defendant to an alcohol abuse deterrent program; and
- (5) an administrative fee of one hundred dollars (\$100);

to either the probation department or the clerk.

(e) In addition to any other conditions of probation, the court may order each person convicted of a misdemeanor to pay:

- (1) not more than a fifty dollar (\$50) initial probation user's fee;
- (2) a monthly probation user's fee of not less than ten dollars (\$10) nor more than twenty dollars (\$20) for each month that the person remains on probation;
- (3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter; and
- (4) an administrative fee of fifty dollars (\$50);

to either the probation department or the clerk.

(f) The probation department or clerk shall collect the administrative fees under subsections (d)(5) and (e)(4) before collecting any other fee under subsection (d) or (e). All money collected by the probation department or the clerk under this section shall be transferred to the county treasurer who shall deposit the money into the county supplemental adult probation services fund. The fiscal body of the county shall appropriate money from the county supplemental adult probation services fund:

- (1) to the county, superior, circuit, or municipal court of the county that provides probation services to adults to supplement adult probation services; and
- (2) to supplement the salaries of probation officers in accordance with the schedule adopted by the county fiscal body under IC 36-2-16.5.

(g) The probation department or clerk shall collect the administrative fee under subsection (e)(4) before collecting any other fee under subsection (e). All money collected by the probation department or the clerk of a city or town court under this section shall be transferred to the fiscal officer of the city or town for deposit into the local supplemental adult probation services fund. The fiscal body of the city or town shall appropriate money from the local supplemental adult probation services fund to the city or town court of the city or town for the court's use in providing probation services to adults or for the court's use for other purposes as may be appropriated by the fiscal body. Money may be appropriated under this subsection only to those

city or town courts that have an adult probation services program. If a city or town court does not have such a program, the money collected by the probation department must be transferred and appropriated as provided under subsection (f).

(h) Except as provided in subsection (j), the county or local supplemental adult probation services fund may be used only to supplement probation services and to supplement salaries for probation officers. A supplemental probation services fund may not be used to replace other funding of probation services. Any money remaining in the fund at the end of the year does not revert to any other fund but continues in the county or local supplemental adult probation services fund.

(i) A person placed on probation for more than one (1) crime:

(1) may be required to pay more than one (1) initial probation user's fee; and

(2) may not be required to pay more than one (1) monthly probation user's fee per month;

to the probation department or the clerk.

(j) This subsection applies to a city or town located in a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000). Any money remaining in the local supplemental adult probation services fund at the end of the local fiscal year may be appropriated by the city or town fiscal body to the city or town court for use by the court for purposes determined by the fiscal body.

(k) In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.

(l) The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to the probation department's account, the probation department may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the

probation department is required to collect under subsection (d) or (e).

(m) The probation department shall forward the credit card service fees collected under subsection (l) to the county treasurer or city or town fiscal officer in accordance with subsection (f) or (g). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 151. IC 35-38-2-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.1. As a condition of probation for a person who is found to have:

(1) committed an offense under IC 9-30-5; or

(2) been adjudicated a delinquent for an act that would be an offense under IC 9-30-5, if committed by an adult;

the court shall require the person to pay the alcohol and drug countermeasures fee under ~~IC 33-19~~: **IC 33-37**.

SECTION 152. IC 35-38-2-3, AS AMENDED BY P.L.166-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The court may revoke a person's probation if:

(1) the person has violated a condition of probation during the probationary period; and

(2) the petition to revoke probation is filed during the probationary period or before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(b) When a petition is filed charging a violation of a condition of probation, the court may:

(1) order a summons to be issued to the person to appear; or

(2) order a warrant for the person's arrest if there is a risk of the person's fleeing the jurisdiction or causing harm to others.

(c) The issuance of a summons or warrant tolls the period of probation until the final determination of the charge.

(d) The court shall conduct a hearing concerning the alleged violation. The court may admit the person to bail pending the hearing.

(e) The state must prove the violation by a preponderance of the evidence. The evidence shall be presented in open court. The person is entitled to confrontation, cross-examination, and representation by counsel.

(f) Probation may not be revoked for failure to comply with conditions of a sentence that imposes financial obligations on the person unless the person recklessly, knowingly, or intentionally fails to pay.

(g) If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may:

- (1) continue the person on probation, with or without modifying or enlarging the conditions;
- (2) extend the person's probationary period for not more than one (1) year beyond the original probationary period; or
- (3) order execution of the sentence that was suspended at the time of initial sentencing.

(h) If the court finds that the person has violated a condition of home detention at any time before termination of the period, and the petition to revoke probation is filed within the probationary period, the court shall:

- (1) order a sanction as set forth in subsection (g); and
- (2) provide credit for time served as set forth under IC 35-38-2.5-5.

(i) If the court finds that the person has violated a condition during any time before the termination of the period, and the petition is filed under subsection (a) after the probationary period has expired, the court may:

- (1) reinstate the person's probationary period, with or without enlarging the conditions, if the sum of the length of the original probationary period and the reinstated probationary period does not exceed the length of the maximum sentence allowable for the offense that is the basis of the probation; or
- (2) order execution of the sentence that was suspended at the time of the initial sentencing.

(j) If the court finds that the person has violated a condition of home detention during any time before termination of the period, and the petition is filed under subsection (a) after the probation period has expired, the court shall:

- (1) order a sanction as set forth in subsection (i); and
- (2) provide credit for time served as set forth under IC 35-38-2.5-5.

(k) A judgment revoking probation is a final appealable order.

(l) Failure to pay fines or costs required as a condition of probation may not be the sole basis for commitment to the department of correction.

(m) Failure to pay fees or costs assessed against a person under ~~IC 33-9-11.5-6, IC 33-19-2-3(c);~~ **IC 33-40-3-6, IC 33-37-2-3(c)**, or IC 35-33-7-6 is not grounds for revocation of probation.

SECTION 153. IC 35-40-10-2, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A notice provided to a victim under this article must be on a form designated by the prosecuting attorney. The prosecuting attorneys council of Indiana established ~~under~~ ~~IC 33-14-8-1~~ **by IC 33-39-8-2** shall develop and disseminate model notice forms for use by prosecuting attorneys.

SECTION 154. IC 35-41-1-6.3, AS ADDED BY P.L.195-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.3. "Crime of domestic violence," for purposes of IC 3-7-13-5 and ~~IC 33-4-5-7, IC 33-28-4-8~~, means an offense or the attempt to commit an offense that:

- (1) has as an element the:
 - (A) use of physical force; or
 - (B) threatened use of a deadly weapon; and
- (2) is committed against a:
 - (A) current or former spouse, parent, or guardian of the defendant;
 - (B) person with whom the defendant shared a child in common;
 - (C) person who was cohabiting with or had cohabited with the defendant as a spouse, parent, or guardian; or
 - (D) person who was or had been similarly situated to a spouse, parent, or guardian of the defendant.

SECTION 155. IC 35-47-2-1, AS AMENDED BY P.L.195-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Except as provided in subsection (b) and section 2 of this chapter, a person shall not carry a handgun in any vehicle or on or about the person's body, except in the person's dwelling, on the person's property or fixed place of business, without a license issued under this chapter being in the person's possession.

(b) Unless the person's right to possess a firearm has been restored under IC 3-7-13-5 or ~~IC 33-4-5-7~~, **IC 33-28-4-8**, a person who has been convicted of domestic battery under IC 35-42-2-1.3 may not possess or carry a handgun in any vehicle or on or about the person's body in the person's dwelling or on the person's property or fixed place of business.

SECTION 156. IC 35-47-4-6, AS ADDED BY P.L.195-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A person who has been convicted of domestic battery under IC 35-42-2-1.3 and who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a domestic batterer, a Class A misdemeanor.

(b) It is a defense to a prosecution under this section that the person's right to possess a firearm has been restored under IC 3-7-13-5 or ~~IC 33-4-5-7~~. **IC 33-28-4-8**.

SECTION 157. IC 35-50-5-3, AS AMENDED BY P.L.88-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Except as provided in subsection (i), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

- (1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);
 - (2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;
 - (3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;
 - (4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and
 - (5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.
- (b) A restitution order under subsection (a) or (i) is a judgment lien

that:

- (1) attaches to the property of the person subject to the order;
- (2) may be perfected;
- (3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and
- (4) expires;

in the same manner as a judgment lien created in a civil proceeding.

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to the victim services division of the Indiana criminal justice institute in an amount not exceeding:

- (1) the amount of the award, if any, paid to the victim under IC 5-2-6.1; and
- (2) the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8.

The victim services division of the Indiana criminal justice institute shall deposit the restitution received under this subsection in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) When a restitution order is issued under subsection (a) or (i), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. The restitution order must include the following information:

- (1) The name and address of the person that is to receive the restitution.
- (2) The amount of restitution the person is to receive.

Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by ~~IC 33-17-2-3~~. **IC 33-32-3-2**. The clerk shall also notify the department of insurance of an order of restitution under subsection (i).

(e) An order of restitution under subsection (a) or (i) does not bar a civil action for:

- (1) damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damage that is the basis of restitution ordered by the court; and
- (2) other damages suffered by the victim.

(f) Regardless of whether restitution is required under subsection (a) as a condition of probation or other sentence, the restitution order is not discharged by the completion of any probationary period or other sentence imposed for a felony or misdemeanor.

(g) A restitution order under subsection (a) or (i) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6, IC 34-1-12, or IC 34-2-7 before their repeal).

(h) The attorney general may pursue restitution ordered by the court under subsections (a) and (c) on behalf of the victim services division of the Indiana criminal justice institute established under IC 5-2-6-8.

(i) The court may order the person convicted of an offense under IC 35-43-9 to make restitution to the victim of the crime. The court shall base its restitution order upon a consideration of the amount of money that the convicted person converted, misappropriated, or received, or for which the convicted person conspired. The restitution order issued for a violation of IC 35-43-9 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for a violation of IC 35-43-9.

SECTION 158. IC 35-50-5-4, AS AMENDED BY P.L.2-2002, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) This section applies only:

- (1) if the county in which a criminal proceeding was filed adopts an ordinance under IC 36-2-13-15; and
- (2) to a person who is sentenced under this article for a felony or a misdemeanor.

(b) At the time the court imposes a sentence, the court may order the person to execute a reimbursement plan as directed by the court and make repayments under the plan to the county for the costs described in IC 36-2-13-15.

(c) The court shall fix an amount under this section that:

- (1) may not exceed an amount the person can or will be able to pay;
- (2) does not harm the person's ability to reasonably be self-supporting or to reasonably support any dependent of the person; and
- (3) takes into consideration and gives priority to any other

restitution, reparation, repayment, costs, fine, or child support obligations the person is required to pay.

(d) When an order is issued under this section, the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by ~~IC 33-17-2-3~~. **IC 33-32-3-2.**

(e) An order under this section is not discharged:

- (1) by the completion of a sentence imposed for a felony or misdemeanor; or
- (2) by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, and IC 34-48-6 before their repeal).

SECTION 159. IC 36-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Certain ordinances may be enforced by a municipal corporation without proceeding in court through:

- (1) an admission of violation before the violations clerk under ~~IC 33-6-3~~; **IC 33-36**; or
- (2) administrative enforcement under section 9 of this chapter.

(b) Except as provided in subsection (a), a proceeding to enforce an ordinance must be brought in accordance with IC 34-28-5, section 4 of this chapter, or both.

(c) An ordinance defining a moving traffic violation may not be enforced under ~~IC 33-6-3~~ **IC 33-36** and must be enforced in accordance with IC 34-28-5.

SECTION 160. IC 36-4-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. The clerk shall do the following:

- (1) Serve as clerk of the city legislative body under IC 36-4-6-9 and maintain custody of its records.
- (2) Maintain all records required by law.
- (3) Keep the city seal.
- (4) As soon as a successor is elected and qualified, deliver to the successor all the records and property of the clerk's office.
- (5) Perform other duties prescribed by law.
- (6) Administer oaths when necessary in the discharge of the

clerk's duties, without charging a fee.

(7) Take depositions, without charging a fee.

(8) Take acknowledgement of instruments that are required by statute to be acknowledged, without charging a fee.

(9) Serve as clerk of the city court under ~~IC 33-10.1-6-2~~, **IC 33-35-3-2**, if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under ~~IC 33-10.1-6-1.1~~. **IC 33-35-3-1**.

SECTION 161. IC 36-4-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) This section applies to third class cities.

(b) The clerk shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the city legislative body. The clerk's deputies and employees serve at the clerk's pleasure.

(c) If a city owns a utility and the clerk is directly responsible for the billing and collection of that utility's rates and charges, the clerk shall appoint those employees who are also responsible for that billing and collection. These employees serve at the clerk's pleasure.

(d) Whenever the city court judge does not serve as clerk of the city court or appoint a clerk to serve as clerk of the city court under ~~IC 33-10.1-6-1.1~~, **IC 33-35-3-1**, the clerk shall serve as clerk of the city court.

SECTION 162. IC 36-5-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) The clerk-treasurer shall do the following:

(1) Receive and care for all town money and pay the money out only on order of the town legislative body.

(2) Keep accounts showing when and from what sources the clerk-treasurer has received town money and when and to whom the clerk-treasurer has paid out town money.

(3) Prescribe payroll and account forms for all town offices.

(4) Prescribe the manner in which creditors, officers, and employees shall be paid.

(5) Manage the finances and accounts of the town and make investments of town money.

(6) Prepare for the legislative body the budget estimates of miscellaneous revenue, financial statements, and the proposed tax

rate.

(7) Maintain custody of the town seal and the records of the legislative body.

(8) Issue all licenses authorized by statute and collect the fees fixed by ordinance.

(9) Serve as clerk of the legislative body by attending its meetings and recording its proceedings.

(10) Administer oaths, take depositions, and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee.

(11) Serve as clerk of the town court under ~~IC 33-10.1-6-2~~; **IC 33-35-3-2**, if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under ~~IC 33-10.1-6-1.1~~; **IC 33-35-3-1**.

(12) Perform all other duties prescribed by statute.

(b) A clerk-treasurer is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the requirements set forth in subsection (a), unless the act or omission constitutes gross negligence or an intentional disregard of the requirements.

SECTION 163. IC 36-9-27-106 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 106. (a) Any owner of land affected by a final order or determination of a board is entitled to judicial review of that order or determination in the circuit or superior court of the county in which the board is located. The owner must file in the court a petition:

(1) setting out the order or determination complained of; and

(2) alleging specifically that the order or determination is arbitrary, capricious, unlawful, or not supported by substantial evidence;

and pay the fee required under ~~IC 33-19-5-4~~; **IC 33-37-4-4**. If the order or determination to be appealed was made by a joint board, the petition must be filed in the circuit or superior court of the county that elected the surveyor who serves as an ex officio member of the joint board.

(b) A petition for judicial review under subsection (a) must be filed within twenty (20) days after:

(1) the date of publication of notice by the board that the order or determination has been made; or

(2) the order or determination was served on the person seeking the judicial review, if the order was served on that person.

(c) A copy of the petition shall be served on the board within five (5) days after the petition is filed. If the order or determination arose in a proceeding initiated by petition for the construction of a new drain under section 54 of this chapter, a copy shall also be served on the attorney for the petitioner, unless the petitioner is the person seeking the judicial review. Service under this subsection:

(1) is sufficient to bring the board and any petitioner for a new drain into court;

(2) may be made on the board by serving a copy of the petition on the county surveyor personally or by leaving it at the surveyor's official office; and

(3) may be made on the attorney for the petitioner by serving a copy of the petition on the attorney personally or by leaving a copy of it at the attorney's address as set forth in the petition.

(d) Within twenty (20) days after receipt of notice that any person has filed a petition for review, the board shall prepare a certified copy of the transcript of the proceedings before the board and file it with the clerk of the court. The petitioner shall pay the cost of preparing this transcript. An extension of time in which to file the transcript shall be granted by the court upon a showing of good cause.

(e) On the filing of a petition for review, the clerk of the court shall docket the cause in the name of petitioner and against the board. The issues shall be considered closed by denial of all matters at issue without the necessity of filing any further pleadings.

(f) When the owners of less than ten percent (10%) of the affected lands petition for judicial review, issues not triable de novo do not operate to stay work unless an appeal bond is posted.

SECTION 164. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 33-1; IC 33-2; IC 33-2.1; IC 33-3; IC 33-4; IC 33-5; IC 33-5.1; IC 33-6; IC 33-8; IC 33-9; IC 33-10.1; IC 33-10.5; IC 33-11.6; IC 33-12; IC 33-13; IC 33-14; IC 33-15; IC 33-16; IC 33-17; IC 33-19; IC 33-20; IC 33-21.

CERTIFICATE

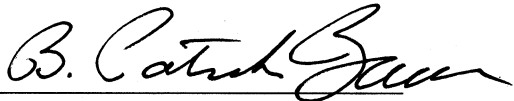
INDIANA GENERAL ASSEMBLY

SS:

STATE OF INDIANA

We, the undersigned, do hereby certify that P.L.1-2004 through P.L.98-2004 of the Second Regular Session of the One Hundred Thirteenth General Assembly of the State of Indiana have been compared with the enrolled acts from which they were taken and have been found correctly printed.

Signed in the State of Indiana, this 13th day of April, 2004.



B. Patrick Bauer
Speaker, House of Representatives



Robert D. Garton
President Pro Tempore, Senate

Seal

STATEMENT OF FUND NET ASSETS OF AUDITOR OF STATE
For the Year Ended June 30, 2003
(amounts expressed in thousands)

	Balance July 1, 2002	Revenues	Expenditures	Balance June 30, 2003
<u>Governmental Funds</u>				
General Fund	\$1,079,042	\$7,639,867	\$7,522,226	\$1,257,670
Other Financing Sources (Net)		60,987		
Special Revenue Funds	1,056,167	10,513,574	10,415,255	778,864
Other Financing Sources (Net)		(375,622)		
Highway Fund	238,832	840,532	1,196,539	330,615
Other Financing Sources (Net)		447,790		
Capital Projects Funds	174,949	36,112	78,202	106,421
Other Financing Sources (Net)		(26,438)		
Permanent Funds	471,277	34,783	20,137	513,642
Other Financing Sources (Net)		27,719		
<u>Proprietary Funds</u>				
Enterprise Funds	2,136,597	1,374,719	1,543,546	1,845,503
Nonoperating Revenues (Net)		(16,470)		
Operating Transfers (Net)		(105,797)		
Internal Service Funds	177,596	385,662	285,984	170,666
Nonoperating Revenues (Net)		(77,969)		
Operating Transfers (Net)		(28,639)		
<u>Fiduciary Funds</u>				
Pension Trust Funds	794,186	100,100	49,728	844,558
Private-Purpose Trust Funds	25,371	127,193	121,774	30,790
Total	<u>\$6,154,017</u>	<u>\$20,958,103</u>	<u>\$21,233,391</u>	<u>\$5,878,729</u>

Please see the State's Comprehensive Annual Financial Report for more information.

Affected Provisions	Type	SEC	Effective	P.L.
Noncode				
0-1986-238	Repealed	184	03/16/2004	28-2004
0-1997-109-4	Repealed	184	03/16/2004	28-2004
0-1999-149-1	Repealed	184	03/16/2004	28-2004
0-2000-28-1	Amended	186	07/01/2003	28-2004
0-2001-7	Repealed	6	03/16/2004	54-2004
0-2001-220-1	Amended	187	07/01/2003	28-2004
0-2001-248-4	Amended	188	07/01/2003	28-2004
0-2001-291-128	Amended	185	07/01/2003	28-2004
0-2002-106-1	Repealed	8	03/17/2004	75-2004
0-2002-107-35	Repealed	8	03/17/2004	75-2004
0-2002-137-5	Amended	189	07/01/2003	28-2004
0-2002-167-2	Amended	190	07/01/2003	28-2004
0-2002(ss)-192-199	Amended	136	03/16/2004	97-2004
0-2003-224-68	Repealed	8	03/17/2004	75-2004
0-2003-11-3	Amended	191	07/01/2003	28-2004
0-2003-24-3	Repealed	184	03/16/2004	28-2004
0-2003-31-1	Amended	192	07/01/2003	28-2004
0-2003-59-3	Amended	193	07/01/2003	28-2004
0-2003-82-1	Amended	194	07/01/2003	28-2004
0-2003-112-2	Amended	135	03/16/2004	97-2004
0-2003-140-1	Amended	195	07/01/2003	28-2004
0-2003-193-12	Amended	196	07/01/2003	28-2004
0-2003-198-1	Amended	197	07/01/2003	28-2004
0-2003-209-205	Amended	199	05/07/2003	14-2004
0-2003-209-214	Amended	200	03/16/2004	14-2004
0-2003-211-10	Amended	198	07/01/2003	28-2004
0-2003-224-70	Amended	27	07/01/2003	78-2004
0-2003-224-198	Repealed	17	03/17/2004	81-2004
0-2003-224-261	Amended	137	03/16/2004	97-2004
0-2003-231-6	Amended	8	03/16/2004	24-2004
0-2003-240-12	Amended	200	07/01/2003	28-2004
0-2003-264-15	Amended	138	03/16/2004	97-2004
0-2003-272-10	Amended	139	03/16/2004	97-2004
0-2003-276-36	Amended	140	03/16/2004	97-2004
0-2003-277-16	Amended	141	03/16/2004	97-2004
0-2003-282-41	Amended	13	03/16/2004	52-2004

Affected Provisions	Type	SEC	Effective	P.L.
Title 1				
1-1-3.5-5	Amended	24	07/01/2004	98-2004
Title 2				
2-3.5-3-4	Amended	2	09/01/2003	94-2004
2-5-1.1-6	Amended	1	07/01/2003	28-2004
2-5-1.1-6.5	Amended	2	07/01/2003	28-2004
2-5-1.1-8	Amended	3	07/01/2003	28-2004
2-5-1.5	New	1	03/18/2004	95-2004
2-5-2-4	Amended	4	07/01/2003	28-2004
2-5-3-5	Amended	5	07/01/2003	28-2004
2-5-12-4	Amended	6	07/01/2003	28-2004
2-5-16-11	Amended	7	07/01/2003	28-2004
2-5-16-13	Amended	8	07/01/2003	28-2004
2-5-20-8	Amended	9	07/01/2003	28-2004
2-5-23-4	Amended	1	07/01/2004	22-2004
2-5-23-14	Amended	10	07/01/2003	28-2004
2-5-25-6	Amended	11	07/01/2003	28-2004
2-5-26-10	Amended	12	07/01/2003	28-2004
2-7-3-6	Amended	1	07/01/2004	86-2004
Title 3				
3-5-2-10	Amended	1	03/16/2004	14-2004
3-5-2-23.2	New	2	03/16/2004	14-2004
3-5-2-48	Amended	3	07/01/2004	14-2004
3-5-3-7	Amended	4	07/01/2004	14-2004
3-5-3-8	Amended	5	07/01/2004	14-2004
3-5-3-9	Amended	6	07/01/2004	14-2004
3-5-3-10	Amended	7	07/01/2004	14-2004
3-5-4-10	New	1	03/11/2004	9-2004
3-5-7-6	Amended	25	07/01/2004	98-2004
3-5-7-7	Amended	8	03/16/2004	14-2004
3-6-4.5-7	Amended	26	07/01/2004	98-2004
3-6-5-3	Amended	2	07/01/2004	9-2004
3-6-5.1-7	Amended	27	07/01/2004	98-2004
3-6-5.2-4.5	New	3	07/01/2004	9-2004
3-6-5.4-4.5	New	4	07/01/2004	9-2004
3-6-6-7	Amended	9	03/16/2004	14-2004
3-6-6-13	Amended	10	03/16/2004	14-2004

Affected Provisions	Type	SEC	Effective	P.L.
3-6-6-23	Amended	11	03/16/2004	14-2004
3-6-6-38	Amended	12	03/16/2004	14-2004
3-6-6-40	Amended	13	03/16/2004	14-2004
3-6-9-1	Amended	14	07/01/2004	14-2004
3-6-9-13	New	15	03/16/2004	14-2004
3-6-10-5.5	New	16	03/16/2004	14-2004
3-7-12-27	Amended	17	03/16/2004	14-2004
3-7-14-2	Amended	18	03/16/2004	14-2004
3-7-14-5	Amended	19	03/16/2004	14-2004
3-7-14-9	Amended	20	03/16/2004	14-2004
3-7-14-9	Amended	5	03/11/2004	9-2004
3-7-14-10	Amended	21	03/16/2004	14-2004
3-7-14-11	Amended	22	03/16/2004	14-2004
3-7-14-12	Amended	23	03/16/2004	14-2004
3-7-14-13	Amended	24	03/16/2004	14-2004
3-7-14-14	Amended	25	07/01/2004	14-2004
3-7-14-15	Amended	26	03/16/2004	14-2004
3-7-15-9	Amended	6	03/11/2004	9-2004
3-7-16-16	Amended	7	03/11/2004	9-2004
3-7-18-8	Amended	8	03/11/2004	9-2004
3-7-26-2	Amended	27	03/16/2004	14-2004
3-7-26-2	Amended	1	03/16/2004	97-2004
3-7-26-8	Amended	2	03/16/2004	97-2004
3-7-26-8	Amended	28	03/16/2004	14-2004
3-7-26.3-22	New	29	07/01/2004	14-2004
3-7-26.3-23	New	30	07/01/2004	14-2004
3-7-26.3-24	New	31	07/01/2004	14-2004
3-7-26.3-25	New	32	07/01/2004	14-2004
3-7-26.3-26	New	33	07/01/2004	14-2004
3-7-26.3-27	New	34	07/01/2004	14-2004
3-7-26.3-28	New	35	07/01/2004	14-2004
3-7-26.3-29	New	36	07/01/2004	14-2004
3-7-26.3-30	New	37	07/01/2004	14-2004
3-7-26.3-31	New	38	07/01/2004	14-2004
3-7-26.3-32	New	39	07/01/2004	14-2004
3-7-27-20	Amended	40	03/16/2004	14-2004
3-7-27-20.2	New	41	07/01/2004	14-2004
3-7-30-2	Amended	42	03/16/2004	14-2004
3-7-32-2	Amended	43	07/01/2004	14-2004
3-7-32-4	Amended	44	07/01/2004	14-2004
3-7-33-4	Amended	45	03/16/2004	14-2004
3-7-33-4.5	Amended	46	03/16/2004	14-2004

Affected Provisions	Type	SEC	Effective	P.L.
3-7-36-14	Amended	47	03/16/2004	14-2004
3-7-38.1-7	Amended	48	03/16/2004	14-2004
3-7-38.2-2	Amended	49	03/16/2004	14-2004
3-7-38.2-13	Amended	50	03/16/2004	14-2004
3-7-48-7	Amended	51	07/01/2004	14-2004
3-8-1-2	Amended	3	03/16/2004	97-2004
3-8-1-11.5	Repealed	195	07/01/2004	14-2004
3-8-1-17	Amended	28	07/01/2004	98-2004
3-8-1-28.5	Amended	29	07/01/2004	98-2004
3-8-1-29.5	Amended	30	07/01/2004	98-2004
3-8-1-33	Amended	52	07/01/2004	14-2004
3-8-1-33	Amended	31	07/01/2004	98-2004
3-8-2-2.7	Amended	53	03/16/2004	14-2004
3-8-2-4	Amended	54	03/16/2004	14-2004
3-8-2-14	Amended	55	03/16/2004	14-2004
3-8-2-20	Amended	9	07/01/2004	9-2004
3-8-4-2	Amended	56	07/01/2004	14-2004
3-8-5-2	Amended	57	07/01/2004	14-2004
3-8-5-10.5	Amended	58	07/01/2004	14-2004
3-8-5-11	Amended	10	07/01/2004	9-2004
3-8-5-13	Amended	59	07/01/2004	14-2004
3-8-5-14.7	Amended	60	07/01/2004	14-2004
3-8-5-15	Amended	61	03/16/2004	14-2004
3-8-6-4	Amended	62	03/16/2004	14-2004
3-8-6-5	Amended	63	03/16/2004	14-2004
3-8-6-5.5	Amended	64	03/16/2004	14-2004
3-8-6-17	Amended	65	03/16/2004	14-2004
3-8-7-11	Amended	66	03/16/2004	14-2004
3-8-7-16	Amended	32	07/01/2004	98-2004
3-8-7-16	Amended	67	07/01/2004	14-2004
3-8-7-18	Amended	11	03/11/2004	9-2004
3-8-7-24	Amended	68	03/16/2004	14-2004
3-8-7-28	Amended	69	03/16/2004	14-2004
3-8-7-30	Amended	70	03/16/2004	14-2004
3-9-1-1.5	New	12	07/01/2004	9-2004
3-9-4-14	Amended	71	03/16/2004	14-2004
3-9-4-16	Amended	72	07/01/2004	14-2004
3-9-4-17	Amended	73	07/01/2004	14-2004
3-9-5-9	Amended	74	07/01/2004	14-2004
3-10-1-5	Amended	13	03/11/2004	9-2004
3-10-1-14	Repealed	194	03/16/2004	14-2004
3-10-1-14.1	New	75	03/16/2004	14-2004

Affected Provisions	Type	SEC	Effective	P.L.
3-10-1-15	Amended	76	03/16/2004	14-2004
3-10-1-16	Amended	33	07/01/2004	98-2004
3-10-1-19	Amended	34	07/01/2004	98-2004
3-10-1-24	Amended	1	07/01/2004	2-2004
3-10-1-31	Amended	4	03/16/2004	97-2004
3-10-1-31	Amended	77	03/16/2004	14-2004
3-10-1-31.1	New	78	03/16/2004	14-2004
3-10-2-7	Amended	79	07/01/2004	14-2004
3-10-2-15	Amended	14	03/11/2004	9-2004
3-10-4-5	Amended	80	07/01/2004	14-2004
3-10-6-5	Amended	81	07/01/2004	14-2004
3-10-6-6	Amended	35	07/01/2004	98-2004
3-10-6-7.5	Amended	82	07/01/2004	14-2004
3-10-6-8	Amended	83	07/01/2004	14-2004
3-10-6-12	Amended	15	07/01/2004	9-2004
3-10-7-2.9	New	16	07/01/2004	9-2004
3-10-7-3	Amended	17	07/01/2004	9-2004
3-10-7-4	Amended	84	07/01/2004	14-2004
3-10-7-5.5	Amended	85	07/01/2004	14-2004
3-10-7-6	Amended	86	07/01/2004	14-2004
3-10-7-21	Amended	87	07/01/2004	14-2004
3-10-7-33	Amended	88	03/16/2004	14-2004
3-10-8-6	Amended	89	03/16/2004	14-2004
3-10-8-9	Amended	90	03/16/2004	14-2004
3-11-1.5-15	Amended	91	03/16/2004	14-2004
3-11-1.5-33	Amended	92	07/01/2004	14-2004
3-11-2-1	Amended	36	07/01/2004	98-2004
3-11-2-1	Repealed	196	12/01/2004	14-2004
3-11-2-2	Amended	93	07/01/2004	14-2004
3-11-2-2.1	New	94	07/01/2004	14-2004
3-11-2-6	Amended	95	03/16/2004	14-2004
3-11-2-9	Amended	96	03/16/2004	14-2004
3-11-2-10	Amended	97	03/16/2004	14-2004
3-11-2-12	Amended	37	07/01/2004	98-2004
3-11-2-12	Amended	98	07/01/2004	14-2004
3-11-2-12.7	Amended	99	07/01/2004	14-2004
3-11-3-2	Amended	100	07/01/2004	14-2004
3-11-3-18	Amended	2	07/01/2004	2-2004
3-11-4-1	Amended	101	03/16/2004	14-2004
3-11-4-3	Amended	102	03/16/2004	14-2004
3-11-4-12	Amended	103	03/16/2004	14-2004
3-11-4-14	Amended	104	03/16/2004	14-2004

Affected Provisions	Type	SEC	Effective	P.L.
3-11-4-18	Amended	105	07/01/2004	14-2004
3-11-5-10	Amended	106	03/16/2004	14-2004
3-11-6.5-0.5	Repealed	133	03/16/2004	97-2004
3-11-6.5-2.1	New	107	03/16/2004	14-2004
3-11-6.5-3.1	Amended	5	03/16/2004	97-2004
3-11-6.5-7.1	Amended	6	03/16/2004	97-2004
3-11-6.5-8	Amended	7	03/16/2004	97-2004
3-11-7-15	Amended	108	03/16/2004	14-2004
3-11-7-17	Amended	109	03/16/2004	14-2004
3-11-7-19	Amended	110	03/16/2004	14-2004
3-11-7.5-5	Amended	111	03/16/2004	14-2004
3-11-7.5-25	Amended	112	03/16/2004	14-2004
3-11-7.5-26	Amended	113	03/16/2004	14-2004
3-11-7.5-28	Amended	114	03/16/2004	14-2004
3-11-8-4.3	Amended	115	03/16/2004	14-2004
3-11-8-10.5	New	18	03/11/2004	9-2004
3-11-8-15	Amended	116	03/16/2004	14-2004
3-11-8-15	Amended	8	03/16/2004	97-2004
3-11-8-25.1	Amended	3	07/01/2004	2-2004
3-11-8-25.2	New	117	07/01/2004	14-2004
3-11-8-25.5	Amended	4	07/01/2004	2-2004
3-11-8-26	Amended	118	03/16/2004	14-2004
3-11-8-26.1	Amended	5	07/01/2004	2-2004
3-11-8-30	Amended	119	03/16/2004	14-2004
3-11-9-2	Amended	120	03/16/2004	14-2004
3-11-10-16	Amended	121	03/16/2004	14-2004
3-11-10-21	Amended	122	03/16/2004	14-2004
3-11-10-24.5	Amended	123	03/16/2004	14-2004
3-11-10-26	Amended	124	03/16/2004	14-2004
3-11-10-26.2	Amended	125	03/16/2004	14-2004
3-11-10-28	Amended	126	03/16/2004	14-2004
3-11-10-36	Amended	127	03/16/2004	14-2004
3-11-10-37	Amended	128	03/16/2004	14-2004
3-11-11-1.2	Amended	129	03/16/2004	14-2004
3-11-11-18	Amended	130	03/16/2004	14-2004
3-11-13-18	Amended	131	03/16/2004	14-2004
3-11-13-23	Amended	132	03/16/2004	14-2004
3-11-15-7	Amended	133	03/16/2004	14-2004
3-11-15-10	Amended	134	03/16/2004	14-2004
3-11-15-13	Amended	9	03/16/2004	97-2004
3-11-15-13.4	New	10	03/16/2004	97-2004
3-11-15-13.5	Repealed	133	03/16/2004	97-2004

Affected Provisions	Type	SEC	Effective	P.L.
3-11-15-13.6	New	11	03/16/2004	97-2004
3-11-15-49	Amended	135	03/16/2004	14-2004
3-11-15-51	Amended	136	03/16/2004	14-2004
3-11-15-57	Amended	137	03/16/2004	14-2004
3-11.5-2-2	Amended	138	03/16/2004	14-2004
3-11.5-4-13	Amended	139	03/16/2004	14-2004
3-11.5-4-15	Amended	140	03/16/2004	14-2004
3-11.5-4-22	Amended	141	03/16/2004	14-2004
3-11.5-4-23	Amended	142	03/16/2004	14-2004
3-11.5-5-23	Amended	143	03/16/2004	14-2004
3-11.5-5-25	Amended	144	03/16/2004	14-2004
3-11.5-5-26	Amended	145	03/16/2004	14-2004
3-11.5-6-26	Amended	146	03/16/2004	14-2004
3-11.5-6-28	Amended	147	03/16/2004	14-2004
3-11.5-6-29	Amended	148	03/16/2004	14-2004
3-11.7-1-5	Amended	149	07/01/2004	14-2004
3-11.7-1-5	Repealed	196	12/01/2004	14-2004
3-11.7-1-6	Amended	150	07/01/2004	14-2004
3-11.7-3-2	Amended	151	03/16/2004	14-2004
3-11.7-3-5	Amended	152	03/16/2004	14-2004
3-11.7-5-1	Amended	153	07/01/2004	14-2004
3-11.7-5-24	Amended	154	03/16/2004	14-2004
3-11.7-5-26	Amended	155	03/16/2004	14-2004
3-11.7-5-27	Amended	156	03/16/2004	14-2004
3-12-2-12	Amended	157	03/16/2004	14-2004
3-12-3-5	Amended	12	03/16/2004	97-2004
3-12-3-10	Amended	158	03/16/2004	14-2004
3-12-4-10	Amended	38	07/01/2004	98-2004
3-12-4-13	Amended	159	03/16/2004	14-2004
3-12-6-2.5	Amended	39	07/01/2004	98-2004
3-12-6-10	Amended	160	03/16/2004	14-2004
3-12-8-5.5	Amended	40	07/01/2004	98-2004
3-12-8-17	Amended	161	03/16/2004	14-2004
3-12-9-4	Amended	162	07/01/2004	14-2004
3-12-10-4	Amended	163	03/16/2004	14-2004
3-12-10-12	Amended	164	03/16/2004	14-2004
3-12-11-10	Amended	165	03/16/2004	14-2004
3-12-11-18	Amended	166	03/16/2004	14-2004
3-12-11-19.5	Amended	167	07/01/2004	14-2004
3-13-1-14	Amended	168	03/16/2004	14-2004
3-13-4-2	Amended	41	07/01/2004	98-2004
3-13-6-1	Amended	42	07/01/2004	98-2004

Affected Provisions	Type	SEC	Effective	P.L.
3-13-6-2	Amended	43	07/01/2004	98-2004
3-13-7-2.5	New	169	03/16/2004	14-2004
3-13-10-2	Amended	170	07/01/2004	14-2004
3-13-10-4	Amended	171	07/01/2004	14-2004
3-13-11-12	Amended	172	03/16/2004	14-2004
3-13-11-13	Amended	173	03/16/2004	14-2004
3-13-11-16	Amended	174	03/16/2004	14-2004
3-13-11-17	Amended	175	03/16/2004	14-2004
3-14-1-10.5	Amended	44	07/01/2004	98-2004
3-14-3-15	Amended	176	03/16/2004	14-2004
3-14-3-16	Amended	177	03/16/2004	14-2004
3-14-5-4	Amended	45	07/01/2004	98-2004

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4-1-6-9	Amended	13	07/01/2003	28-2004
4-1-8-1	Amended	1	07/01/2004	72-2004
4-1-8-7	Amended	14	07/01/2003	28-2004
4-1.5-4-2	Amended	1	07/01/2005	63-2004
4-1.5-4-3	Amended	2	07/01/2005	63-2004
4-2-1-1	Amended	178	07/01/2004	14-2004
4-2-2-1	Amended	179	07/01/2004	14-2004
4-2-6-8	Amended	180	03/16/2004	14-2004
4-3-3-2	Amended	13	03/16/2004	97-2004
4-3-6-4	Amended	15	07/01/2003	28-2004
4-3-11-2	Amended	16	07/01/2003	28-2004
4-3-12-2	Amended	17	07/01/2003	28-2004
4-3-12-3	Amended	1	07/01/2004	96-2004
4-3-13-1.5	Amended	2	07/01/2004	96-2004
4-3-13-2	Amended	3	07/01/2004	96-2004
4-3-13-8	Amended	4	07/01/2004	96-2004
4-3-13-9	Amended	5	07/01/2004	96-2004
4-3-13-15	Amended	18	07/01/2003	28-2004
4-3-13-19	Amended	6	07/01/2004	96-2004
4-3-13-20	Amended	7	07/01/2004	96-2004
4-3-14-4	Amended	8	07/01/2004	96-2004
4-3-14-4	Amended	19	07/01/2003	28-2004
4-3-15-4	Amended	20	07/01/2003	28-2004
4-3-16-2.5	Amended	9	07/01/2004	96-2004
4-3-16-2.7	Amended	10	07/01/2004	96-2004
4-3-17-4	Amended	21	07/01/2003	28-2004
4-3-19-29	Amended	22	07/01/2003	28-2004

Affected Provisions	Type	SEC	Effective	P.L.
4-4-3-8	Amended	23	07/01/2003	28-2004
4-4-3-8	Amended	1	01/01/2005	73-2004
4-4-3-23	New	2	01/01/2005	73-2004
4-4-5.1-12	Amended	24	07/01/2003	28-2004
4-4-5.2	New	44	07/01/2004	81-2004
4-4-7-5	Amended	25	07/01/2003	28-2004
4-4-9.5-2	Amended	26	07/01/2003	28-2004
4-4-16.5-6	Amended	27	07/01/2003	28-2004
4-4-18-22	Amended	28	07/01/2003	28-2004
4-4-29-0.5	New	1	07/01/2004	74-2004
4-4-29-4	Amended	2	07/01/2004	74-2004
4-4-29-6	Amended	3	07/01/2004	74-2004
4-4-29-9	Amended	29	07/01/2003	28-2004
4-4-30-8	Amended	13	07/01/2004	96-2004
4-4-31.4	New	1	07/01/2004	283-2003
4-4-32	New	43	07/01/2004	81-2004
4-4-32.4	New	11	07/01/2004	96-2004
4-6-2-6	Amended	46	07/01/2004	98-2004
4-6-3-3	Amended	3	01/01/2005	73-2004
4-6-9-6	Amended	30	07/01/2003	28-2004
4-6-12	New	4	01/01/2005	73-2004
4-7-1-2	Amended	31	07/01/2003	28-2004
4-8.1-2-14	Amended	32	07/01/2003	28-2004
4-10-13-7	Amended	33	07/01/2003	28-2004
4-10-21-8	Amended	34	07/01/2003	28-2004
4-12-1-11	Amended	35	07/01/2003	28-2004
4-12-1-12	Amended	36	07/01/2003	28-2004
4-12-1-14	Amended	37	07/01/2003	28-2004
4-12-4-14	Amended	38	07/01/2003	28-2004
4-12-10-3	Amended	14	07/01/2004	96-2004
4-12-10-4	Amended	15	07/01/2004	96-2004
4-12-10-6	Amended	16	07/01/2004	96-2004
4-12-12	New	17	07/01/2004	96-2004
4-13-1.1-12	Amended	39	07/01/2003	28-2004
4-13-1.2-10	Amended	40	07/01/2003	28-2004
4-13-1.4-10	Amended	41	07/01/2003	28-2004
4-13-16.5-1	Amended	1	07/01/2004	84-2004
4-13-16.5-2	Amended	2	07/01/2004	84-2004
4-13-16.5-3	Amended	3	07/01/2004	84-2004
4-13-16.5-6	New	4	07/01/2004	84-2004
4-13-16.5-7	New	5	07/01/2004	84-2004
4-13-17	New	1	07/01/2004	93-2004

Affected Provisions	Type	SEC	Effective	P.L.
4-13.6-6-2	Amended	1	07/01/2004	66-2004
4-13.6-6-2.7	New	2	07/01/2004	66-2004
4-15-1.8-7	Amended	1	07/01/2004	50-2004
4-15-2.5-5	Amended	42	07/01/2003	28-2004
4-21.5-5-13	Amended	47	07/01/2004	98-2004
4-22-2-21	Amended	43	07/01/2004	28-2004
4-22-2-37.1	Amended	1	03/16/2004	23-2004
4-22-2-37.1	Amended	1	12/12/2003	1-2004
4-22-7-5	Amended	44	07/01/2004	28-2004
4-23-2.5-16	Amended	45	07/01/2003	28-2004
4-23-5.5-6	Amended	46	07/01/2003	28-2004
4-23-15-5	Amended	47	07/01/2003	28-2004
4-23-25-7	Amended	48	07/01/2003	28-2004
4-23-28-3	Amended	49	07/01/2003	28-2004
4-23-29	New	1	07/01/2004	21-2004
4-24-6-6	Amended	1	07/01/2004	7-2004
4-30-3-3	Amended	50	07/01/2003	28-2004
4-30-19-3	Amended	51	07/01/2003	28-2004
4-31-3-8	Amended	52	07/01/2003	28-2004
4-32-6-20.5	New	1	07/01/2004	29-2004
4-32-6-23.5	New	2	07/01/2004	29-2004
4-32-9-16.5	Amended	3	07/01/2004	29-2004
4-32-9-33	Amended	1	07/01/2004	81-2004
4-33-4-3	Amended	1	07/01/2004	37-2004
4-33-4-22	Amended	14	03/16/2004	97-2004
4-33-5-1	Amended	15	03/16/2004	97-2004
4-33-13-1.5	Amended	16	03/16/2004	97-2004
4-33-13-5	Amended	17	03/16/2004	97-2004
4-33-14-5	Amended	6	07/01/2004	84-2004
4-33-14-7	Amended	7	07/01/2004	84-2004
4-33-14-8	Amended	8	07/01/2004	84-2004
4-34-4-1	Amended	53	07/01/2003	28-2004

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5-1-16-35	Amended	54	07/01/2003	28-2004
5-2-1-9	Amended	40	07/01/2004	85-2004
5-2-1-9	Amended	1	07/01/2004	62-2004
5-2-1-10.5	New	2	07/01/2004	62-2004
5-2-1-13	Amended	48	07/01/2004	98-2004
5-2-6.1-10	Amended	55	07/01/2003	28-2004
5-2-6.1-41	Amended	49	07/01/2004	98-2004

Affected Provisions	Type	SEC	Effective	P.L.
5-2-8-1	Amended	50	07/01/2004	98-2004
5-2-8-2	Amended	51	07/01/2004	98-2004
5-2-8-5	Amended	52	07/01/2004	98-2004
5-2-8-7	Amended	53	07/01/2004	98-2004
5-2-8-8	Amended	54	07/01/2004	98-2004
5-2-9-8	Amended	18	03/16/2004	97-2004
5-2-10-2	Amended	55	07/01/2004	98-2004
5-2-10.1-2	Amended	56	07/01/2004	98-2004
5-2-11-2	Amended	57	07/01/2004	98-2004
5-2-14	New	1	07/01/2004	39-2004
5-4-1-18	Amended	56	07/01/2003	28-2004
5-4-1-20	Amended	58	07/01/2004	98-2004
5-6-1-1	Amended	181	07/01/2004	14-2004
5-7-2-2	Amended	59	07/01/2004	98-2004
5-7-2-3	Amended	60	07/01/2004	98-2004
5-7-2-6	Amended	61	07/01/2004	98-2004
5-8-1-19	Amended	62	07/01/2004	98-2004
5-8-3.5-1	Amended	182	07/01/2004	14-2004
5-9-4	New	1	03/17/2004	79-2004
5-10-1.5-1	Amended	63	07/01/2004	98-2004
5-10-1.7-1	Amended	64	07/01/2004	98-2004
5-10-5.5-3	Amended	3	09/01/2003	94-2004
5-10-8-1	Amended	65	07/01/2004	98-2004
5-10.1-1-1	Amended	66	07/01/2004	98-2004
5-10.2-4-3	Amended	2	06/01/2004	95-2004
5-10.2-5-36	New	1	07/01/2004	56-2004
5-10.2-5-37	New	2	07/01/2004	56-2004
5-10.3-5-5	Amended	19	03/16/2004	97-2004
5-10.3-7-1	Amended	1	07/01/2004	91-2004
5-10.3-7-1	Amended	67	07/01/2004	98-2004
5-10.3-7-2	Amended	68	07/01/2004	98-2004
5-11-5-1	Amended	57	07/01/2003	28-2004
5-13-10.5-11	Amended	2	12/12/2003	1-2004
5-13-10.5-11	Amended	2	03/16/2004	23-2004
5-14-3-3.5	Amended	183	07/01/2004	14-2004
5-14-4-12	Amended	58	07/01/2003	28-2004
5-16-8-2	Amended	59	07/01/2003	28-2004
5-20-1-18	Amended	60	07/01/2003	28-2004
5-21-1-6.5	New	2	07/01/2004	93-2004
5-21-2-14	Amended	61	07/01/2003	28-2004
5-21-3-1	Amended	3	07/01/2004	93-2004
5-22-2-13.5	New	4	03/18/2004	93-2004

Affected Provisions	Type	SEC	Effective	P.L.
5-22-2-13.7	New	5	03/18/2004	93-2004
5-22-2-28.5	New	6	03/18/2004	93-2004
5-22-3-4	Amended	7	07/01/2004	93-2004
5-22-7-5	Amended	8	03/18/2004	93-2004
5-22-7.5	New	9	07/01/2004	93-2004
5-22-15-20	Amended	3	07/01/2004	66-2004
5-22-15-20.5	New	4	07/01/2004	66-2004
5-22-16-4	Amended	5	07/01/2004	66-2004

Title 6

6-1.1-1-8.7	New	3	12/12/2003	1-2004
6-1.1-1-8.7	New	3	03/16/2004	23-2004
6-1.1-4-32	Amended	69	07/01/2004	98-2004
6-1.1-4-34	Amended	4	05/08/2003	23-2004
6-1.1-4-35	New	5	03/16/2004	23-2004
6-1.1-4-35	New	4	12/12/2003	1-2004
6-1.1-4-36	New	6	03/16/2004	23-2004
6-1.1-4-36	New	5	12/12/2003	1-2004
6-1.1-4-37	New	6	12/12/2003	1-2004
6-1.1-4-37	New	7	03/16/2004	23-2004
6-1.1-4-38	New	7	12/12/2003	1-2004
6-1.1-4-38	New	8	03/16/2004	23-2004
6-1.1-4-39	New	9	03/16/2004	23-2004
6-1.1-4-39	New	8	12/12/2003	1-2004
6-1.1-4-40	New	58	03/01/2004	81-2004
6-1.1-5.5-3	Amended	9	12/12/2003	1-2004
6-1.1-5.5-3	Amended	10	03/16/2004	23-2004
6-1.1-5.5-3	Amended	1	07/01/2004	64-2004
6-1.1-5.5-4.7	Amended	10	01/01/2004	1-2004
6-1.1-5.5-4.7	Amended	11	01/01/2004	23-2004
6-1.1-5.5-5	Amended	2	07/01/2004	64-2004
6-1.1-7-2	Amended	11	12/12/2003	1-2004
6-1.1-7-2	Amended	12	03/16/2004	23-2004
6-1.1-8-36	Amended	70	07/01/2004	98-2004
6-1.1-9-1	Amended	12	12/12/2003	1-2004
6-1.1-9-1	Amended	13	03/16/2004	23-2004
6-1.1-11-8	Amended	62	07/01/2003	28-2004
6-1.1-12-9	Amended	1	01/01/2005	20-2004
6-1.1-12-11	Amended	2	01/01/2005	20-2004
6-1.1-12-13	Amended	3	01/01/2005	20-2004
6-1.1-12-14	Amended	4	01/01/2005	20-2004

Affected Provisions	Type	SEC	Effective	P.L.
6-1.1-12-16	Amended	5	01/01/2005	20-2004
6-1.1-12-17.4	Amended	6	01/01/2005	20-2004
6-1.1-12-18	Amended	7	01/01/2005	20-2004
6-1.1-12-22	Amended	8	01/01/2005	20-2004
6-1.1-12-43	New	3	03/17/2004	64-2004
6-1.1-12.1-1	Amended	4	07/01/2004	64-2004
6-1.1-12.1-1	Amended	48	07/01/2004	81-2004
6-1.1-12.1-2	Amended	49	07/01/2004	81-2004
6-1.1-12.1-2	Amended	5	07/01/2004	64-2004
6-1.1-12.1-2.3	New	6	07/01/2004	64-2004
6-1.1-12.1-2.3	New	50	07/01/2004	81-2004
6-1.1-12.1-3	Amended	2	03/17/2004	72-2004
6-1.1-12.1-4.1	Amended	9	01/01/2005	20-2004
6-1.1-12.1-4.5	Amended	51	07/01/2004	81-2004
6-1.1-12.1-4.5	Amended	7	07/01/2004	64-2004
6-1.1-12.1-4.5	Amended	20	03/16/2004	97-2004
6-1.1-12.1-5.4	Amended	52	07/01/2004	81-2004
6-1.1-12.1-5.4	Amended	8	07/01/2004	64-2004
6-1.1-12.1-5.6	Amended	53	07/01/2004	81-2004
6-1.1-12.1-5.6	Amended	9	07/01/2004	64-2004
6-1.1-12.1-5.8	Amended	10	07/01/2004	64-2004
6-1.1-12.1-5.8	Amended	54	07/01/2004	81-2004
6-1.1-12.1-8	Amended	11	07/01/2004	64-2004
6-1.1-12.1-8	Amended	55	07/01/2004	81-2004
6-1.1-12.1-11.3	Amended	12	07/01/2004	64-2004
6-1.1-12.1-11.3	Amended	56	07/01/2004	81-2004
6-1.1-12.1-14	New	57	07/01/2004	81-2004
6-1.1-15-1	Amended	14	03/16/2004	23-2004
6-1.1-15-1	Amended	13	12/12/2003	1-2004
6-1.1-15-2.1	Amended	15	03/16/2004	23-2004
6-1.1-15-2.1	Amended	14	12/12/2003	1-2004
6-1.1-15-3	Amended	15	12/12/2003	1-2004
6-1.1-15-3	Amended	16	03/16/2004	23-2004
6-1.1-15-4	Amended	17	03/16/2004	23-2004
6-1.1-15-4	Amended	16	12/12/2003	1-2004
6-1.1-15-10	Amended	18	03/16/2004	23-2004
6-1.1-15-10	Amended	17	12/12/2003	1-2004
6-1.1-15-11	Amended	19	03/16/2004	23-2004
6-1.1-15-11	Amended	18	12/12/2003	1-2004
6-1.1-17-20	Amended	19	07/01/2004	1-2004
6-1.1-17-20	Amended	20	07/01/2004	23-2004
6-1.1-18-12	Amended	1	12/12/2003	78-2004

Affected Provisions	Type	SEC	Effective	P.L.
6-1.1-18-12	New	20	12/12/2003	1-2004
6-1.1-18-12	New	21	03/16/2004	23-2004
6-1.1-18.5-1	Amended	21	12/12/2003	1-2004
6-1.1-18.5-1	Amended	22	03/16/2004	23-2004
6-1.1-18.5-10	Amended	2	01/01/2004	78-2004
6-1.1-18.5-10.1	Amended	71	07/01/2004	98-2004
6-1.1-18.5-12	Amended	23	03/16/2004	23-2004
6-1.1-18.5-13	Amended	24	03/16/2004	23-2004
6-1.1-18.5-13	Amended	22	12/12/2003	1-2004
6-1.1-18.5-16	Amended	25	03/16/2004	23-2004
6-1.1-18.5-16	Amended	23	12/12/2003	1-2004
6-1.1-18.5-17	Amended	26	03/16/2004	23-2004
6-1.1-18.5-17	Amended	24	07/01/2004	1-2004
6-1.1-18.6-2	Amended	27	07/01/2003	23-2004
6-1.1-18.6-2	Amended	25	07/01/2003	1-2004
6-1.1-18.6-2.2	Amended	26	07/01/2003	1-2004
6-1.1-18.6-2.2	Amended	28	07/01/2003	23-2004
6-1.1-19-1.5	Amended	27	12/12/2003	1-2004
6-1.1-19-1.5	Amended	29	03/16/2004	23-2004
6-1.1-19-1.7	Amended	28	07/01/2004	1-2004
6-1.1-19-1.7	Amended	30	03/16/2004	23-2004
6-1.1-19-2	Amended	31	03/16/2004	23-2004
6-1.1-19-4.5	Amended	184	07/01/2004	14-2004
6-1.1-19-4.7	Amended	32	03/16/2004	23-2004
6-1.1-19-4.7	Amended	29	12/12/2003	1-2004
6-1.1-20-3.1	Amended	33	03/01/2004	23-2004
6-1.1-20-3.1	Amended	30	03/01/2004	1-2004
6-1.1-20-3.2	Amended	34	03/01/2004	23-2004
6-1.1-20-3.2	Amended	31	03/01/2004	1-2004
6-1.1-20-10	New	35	03/01/2004	23-2004
6-1.1-20-10	New	32	03/01/2004	1-2004
6-1.1-21-2	Amended	33	12/12/2003	1-2004
6-1.1-21-2	Amended	36	03/16/2004	23-2004
6-1.1-21-4	Amended	21	03/16/2004	97-2004
6-1.1-21-5	Amended	34	12/12/2003	1-2004
6-1.1-21-5	Amended	37	03/16/2004	23-2004
6-1.1-22-8	Amended	13	03/17/2004	64-2004
6-1.1-22-9	Amended	38	03/16/2004	23-2004
6-1.1-22-9	Amended	35	12/12/2003	1-2004
6-1.1-22-9.5	New	39	03/16/2004	23-2004
6-1.1-22-9.5	New	36	12/12/2003	1-2004
6-1.1-22.5	New	37	12/12/2003	1-2004

Affected Provisions	Type	SEC	Effective	P.L.
6-1.1-22.5	New	40	03/16/2004	23-2004
6-1.1-24-7	Amended	22	03/16/2004	97-2004
6-1.1-25-4.6	Amended	23	03/16/2004	97-2004
6-1.1-31-3	Amended	38	12/12/2003	1-2004
6-1.1-31-3	Amended	41	03/16/2004	23-2004
6-1.1-31-5	Amended	42	03/16/2004	23-2004
6-1.1-31-5	Amended	39	12/12/2003	1-2004
6-1.1-31-6	Amended	40	12/12/2003	1-2004
6-1.1-31-6	Amended	43	03/16/2004	23-2004
6-1.1-31-7	Amended	44	03/16/2004	23-2004
6-1.1-31-7	Amended	41	12/12/2003	1-2004
6-1.1-33.5-2	Amended	14	07/01/2004	64-2004
6-1.1-33.5-2	Amended	63	07/01/2003	28-2004
6-1.1-33.5-3	Amended	64	07/01/2003	28-2004
6-1.1-35-1.1	Amended	42	07/01/2004	1-2004
6-1.1-35-1.1	Amended	45	07/01/2004	23-2004
6-1.1-35.5-1	Amended	43	03/01/2004	1-2004
6-1.1-35.5-1	Amended	46	03/01/2004	23-2004
6-1.1-35.5-4	Amended	47	03/01/2004	23-2004
6-1.1-35.5-4	Amended	44	03/01/2004	1-2004
6-1.1-37-9	Amended	48	03/16/2004	23-2004
6-1.1-37-9	Amended	45	12/12/2003	1-2004
6-1.1-37-10	Amended	46	12/12/2003	1-2004
6-1.1-37-10	Amended	49	03/16/2004	23-2004
6-1.1-37-10.5	New	47	12/12/2003	1-2004
6-1.1-37-10.5	New	50	03/16/2004	23-2004
6-1.1-39-6	Amended	48	12/12/2003	1-2004
6-1.1-39-6	Amended	51	03/16/2004	23-2004
6-1.5-5-1	Amended	24	03/16/2004	97-2004
6-2.5-1-5	Amended	2	03/17/2004	81-2004
6-2.5-1-21	Amended	25	03/16/2004	97-2004
6-2.5-3-1	Amended	3	07/01/2004	81-2004
6-2.5-3-5	Amended	4	07/01/2004	81-2004
6-2.5-4-1	Amended	5	03/17/2004	81-2004
6-2.5-4-4.5	Repealed	59	04/01/2004	81-2004
6-2.5-4-5	Amended	19	07/01/2004	81-2004
6-2.5-4-6	Amended	1	03/09/2004	5-2004
6-2.5-4-11	Amended	6	03/01/2004	81-2004
6-2.5-5-15	Repealed	60	07/01/2004	81-2004
6-2.5-6-9	Amended	7	07/01/2004	81-2004
6-2.5-6-13	Amended	26	03/16/2004	97-2004
6-2.5-6-14	Repealed	133	03/16/2004	97-2004

Affected Provisions	Type	SEC	Effective	P.L.
6-2.5-6-14.1	New	27	03/16/2004	97-2004
6-2.5-6-14.2	New	28	03/16/2004	97-2004
6-2.5-6-15	Repealed	59	04/01/2004	81-2004
6-2.5-8-10	Amended	8	07/01/2004	81-2004
6-2.5-10-5	New	1	01/01/2005	19-2004
6-3-1-3.5	Amended	9	01/01/2004	81-2004
6-3-1-3.5	Amended	49	01/01/2004	1-2004
6-3-2-1	Amended	20	01/01/2005	81-2004
6-3-2-1.5	New	21	01/01/2005	81-2004
6-3-2-2.5	Amended	10	01/01/2004	81-2004
6-3-2-2.6	Amended	11	01/01/2004	81-2004
6-3.1-4-6	Amended	12	07/01/2004	81-2004
6-3.1-11-15	Amended	1	07/01/2004	26-2004
6-3.1-11.6	New	22	01/01/2005	81-2004
6-3.1-13-7	Amended	13	01/01/2004	81-2004
6-3.1-13-21	Amended	14	01/01/2004	81-2004
6-3.1-13-23	Amended	65	07/01/2003	28-2004
6-3.1-19-3	Amended	29	07/01/2004	81-2004
6-3.1-19-3	Amended	1	07/01/2004	90-2004
6-3.1-19-5	Amended	30	07/01/2004	81-2004
6-3.1-19-5	Amended	2	07/01/2004	90-2004
6-3.1-26-24	Amended	66	07/01/2003	28-2004
6-3.1-26-26	Amended	16	01/01/2004	81-2004
6-3.5-1.1-3.6	Amended	29	03/16/2004	97-2004
6-3.5-6-13	Amended	30	03/16/2004	97-2004
6-3.5-7-5	Amended	31	03/16/2004	97-2004
6-3.5-7-12	Amended	32	03/16/2004	97-2004
6-3.5-7-22.5	Amended	3	07/01/2004	90-2004
6-3.5-7-26	Amended	33	03/16/2004	97-2004
6-3.5-7-27	Amended	34	03/16/2004	97-2004
6-4.1-1-3	Amended	1	07/01/2004	68-2004
6-4.1-1-3	Amended	18	07/01/2004	81-2004
6-8.1-3-16	Amended	41	07/01/2004	81-2004
6-8.1-3-17	Amended	72	07/01/2004	98-2004
6-8.1-5-1	Amended	73	07/01/2004	98-2004
6-8.1-9-1	Amended	74	07/01/2004	98-2004
6-8.1-9-1.2	Amended	75	07/01/2004	98-2004
6-8.1-9-14	Amended	67	07/01/2003	28-2004
6-8.1-14-3	Amended	68	07/01/2003	28-2004

Affected Provisions	Type	SEC	Effective	P.L.
Title 7.1				
7.1-2-3-16.5	Amended	3	07/01/2004	72-2004
7.1-3-1-14	Amended	4	07/01/2004	72-2004
7.1-3-2-2	Amended	5	07/01/2004	72-2004
7.1-3-2-7	Amended	6	07/01/2004	72-2004
7.1-3-9-11	Amended	7	07/01/2004	72-2004
7.1-3-9-12	New	8	07/01/2004	72-2004
7.1-3-10-13	Amended	9	07/01/2004	72-2004
7.1-3-17.5-6	Amended	10	07/01/2004	72-2004
7.1-3-20-16.1	New	11	07/01/2004	72-2004
7.1-3-21-3	Amended	12	07/01/2004	72-2004
7.1-3-21-5	Amended	13	07/01/2004	72-2004
7.1-3-21-5.2	Amended	14	07/01/2004	72-2004
7.1-3-21-5.4	Amended	15	07/01/2004	72-2004
7.1-5-7-11	Amended	16	03/17/2004	72-2004
7.1-5-9-5	Repealed	18	07/01/2004	72-2004
7.1-5-9-10	Amended	17	07/01/2004	72-2004

Title 8

8-1-1-14	Amended	69	07/01/2003	28-2004
8-1-2.5-9	Amended	70	07/01/2003	28-2004
8-1-2.6-4	Amended	71	07/01/2003	28-2004
8-1-2.8-21	Amended	72	07/01/2003	28-2004
8-1-8.3	New	1	03/16/2004	42-2004
8-1-19.5	New	1	07/01/2004	60-2004
8-1.5-3-3	Amended	1	07/01/2004	282-2003
8-1.5-3.5	New	1	07/01/2004	53-2004
8-1.5-5-1	Amended	2	01/27/2004	282-2003
8-1.5-5-1.5	New	3	01/27/2004	282-2003
8-1.5-5-2	Amended	4	01/27/2004	282-2003
8-1.5-5-3	Amended	5	01/27/2004	282-2003
8-1.5-5-4	Amended	6	07/01/2004	282-2003
8-1.5-5-4.5	New	7	01/27/2004	282-2003
8-1.5-5-5	Amended	8	01/27/2004	282-2003
8-1.5-5-6	Amended	9	01/27/2004	282-2003
8-1.5-5-7	Amended	10	01/27/2004	282-2003
8-1.5-5-12	Amended	11	01/27/2004	282-2003
8-1.5-5-15	Amended	12	01/27/2004	282-2003
8-1.5-5-16	Amended	13	01/27/2004	282-2003
8-1.5-5-16.5	New	14	01/27/2004	282-2003

Affected Provisions	Type	SEC	Effective	P.L.
8-1.5-5-20	Amended	15	01/27/2004	282-2003
8-1.5-5-21	Amended	16	01/27/2004	282-2003
8-1.5-5-22	Amended	17	01/27/2004	282-2003
8-1.5-5-23	Amended	18	01/27/2004	282-2003
8-1.5-5-27	New	19	01/27/2004	282-2003
8-1.5-5-28	New	20	01/27/2004	282-2003
8-6-15-2	Amended	35	03/16/2004	97-2004
8-10-1-12	Amended	36	03/16/2004	97-2004
8-10-5-17	Amended	1	07/01/2004	34-2004
8-10-5-22	Amended	2	07/01/2004	34-2004
8-10-5-23	New	3	07/01/2004	34-2004
8-14.5-5-2	Amended	73	07/01/2003	28-2004
8-22-3-4.1	Amended	1	07/01/2004	83-2004
8-22-3.5-10	Amended	52	03/16/2004	23-2004
8-22-3.5-10	Amended	50	12/12/2003	1-2004
8-22-4-2	Amended	74	07/01/2003	28-2004
8-23-2-15	Amended	76	07/01/2004	98-2004
8-23-5-8	Amended	75	07/01/2003	28-2004
8-23-10-4	Amended	1	07/01/2004	92-2004

Title 9

9-13-2-1.1	New	1	07/01/2004	48-2004
9-13-2-1.5	New	2	07/01/2004	48-2004
9-13-2-5	Amended	3	03/16/2004	48-2004
9-13-2-23	Amended	1	07/01/2005	67-2004
9-14-3-5	Amended	185	03/16/2004	14-2004
9-14-3-7	Amended	1	07/01/2004	76-2004
9-16-5-2	Amended	76	07/01/2003	28-2004
9-17-3-3	Amended	37	03/16/2004	97-2004
9-18-9-4	Repealed	61	07/01/2004	81-2004
9-18-15-1	Amended	1	05/01/2004	54-2004
9-18-25-17.5	New	2	07/01/2004	54-2004
9-18-47	New	3	03/16/2004	54-2004
9-18-48	New	4	03/16/2004	54-2004
9-19-10-1	Amended	2	07/01/2005	67-2004
9-19-10-2.5	Repealed	14	07/01/2005	67-2004
9-19-11-1	Amended	3	07/01/2005	67-2004
9-19-11-2	Amended	4	07/01/2005	67-2004
9-19-11-3	Amended	5	07/01/2005	67-2004
9-19-11-3.3	New	6	07/01/2005	67-2004
9-19-11-3.6	New	7	07/01/2005	67-2004

Affected Provisions	Type	SEC	Effective	P.L.
9-19-11-3.7	New	8	07/01/2005	67-2004
9-19-11-5	Amended	9	07/01/2005	67-2004
9-19-11-6	Amended	10	07/01/2005	67-2004
9-19-11-9	New	11	07/01/2005	67-2004
9-19-11-10	New	12	07/01/2005	67-2004
9-19-11-11	New	13	07/01/2005	67-2004
9-19-14.5-1	Amended	38	03/16/2004	97-2004
9-20-5-4	Amended	1	03/16/2004	10-2004
9-20-16-1	Amended	77	07/01/2003	28-2004
9-24-1-1.5	New	186	07/01/2004	14-2004
9-24-6-11.5	New	4	07/01/2004	48-2004
9-24-6-12	Amended	5	07/01/2004	48-2004
9-24-6.5	New	6	07/01/2004	48-2004
9-24-7-4	Amended	7	07/01/2004	48-2004
9-24-15-6.5	Amended	2	07/01/2004	76-2004
9-24-17-10	Amended	39	03/16/2004	97-2004
9-27-2-11	Amended	77	07/01/2004	98-2004
9-27-4-4	Amended	8	03/16/2004	48-2004
9-27-5-5	Amended	78	07/01/2003	28-2004
9-30-3-12	Amended	78	07/01/2004	98-2004
9-30-5-3	Amended	1	07/01/2004	82-2004
9-30-5-4	Amended	3	07/01/2004	76-2004
9-30-5-5	Amended	2	07/01/2004	82-2004
9-30-5-5	Amended	4	07/01/2004	76-2004
9-30-5-8	Amended	5	07/01/2004	76-2004
9-30-5-10	Amended	6	07/01/2004	76-2004
9-30-5-13	Amended	7	07/01/2004	76-2004
9-30-5-15	Amended	48	07/01/2004	85-2004
9-30-5-16	Amended	8	07/01/2004	76-2004
9-30-6-8	Amended	9	07/01/2004	76-2004
9-30-6-8.5	New	10	07/01/2004	76-2004
9-30-6-8.7	New	11	07/01/2004	76-2004
9-30-6-9	Amended	12	07/01/2004	76-2004
9-30-6-10	Amended	13	07/01/2004	76-2004
9-30-6-11	Amended	14	07/01/2004	76-2004
9-30-6-13	Amended	15	07/01/2004	76-2004
9-30-6-18	Amended	16	07/01/2004	76-2004
9-30-8-1	Amended	17	07/01/2004	76-2004
9-30-9-5	Amended	18	07/01/2004	76-2004
9-30-9-7	Amended	19	07/01/2004	76-2004
9-30-9-7.5	New	20	07/01/2004	76-2004

Affected Provisions	Type	SEC	Effective	P.L.
9-30-9-10	Amended	79	07/01/2004	98-2004
9-30-10-5	Amended	3	07/01/2004	82-2004

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10-11-2-29	Amended	40	03/16/2004	97-2004
10-13-2-5	Amended	41	03/16/2004	97-2004
10-13-3-6	Amended	1	07/01/2004	70-2004
10-13-3-13	Amended	80	07/01/2004	98-2004
10-13-3-36	Amended	42	03/16/2004	97-2004
10-13-3-38	Amended	79	07/01/2003	28-2004
10-13-5-10	Amended	1	07/01/2004	36-2004
10-14-8-4	Amended	80	07/01/2003	28-2004
10-15-3-11	Amended	81	07/01/2003	28-2004
10-17-8-6	Amended	82	07/01/2003	28-2004
10-17-10-1	Amended	43	07/01/2003	97-2004
10-17-10-2	Amended	44	07/01/2003	97-2004
10-17-10-4	Amended	45	07/01/2003	97-2004

Title 11

11-8-1-5.6	Amended	30	07/01/2004	85-2004
11-8-2-8	Amended	41	07/01/2004	85-2004
11-10-3-2.5	Amended	83	07/01/2003	28-2004
11-10-11.5-1	Amended	31	07/01/2004	85-2004
11-10-11.5-2	Amended	32	07/01/2004	85-2004
11-10-11.5-4.5	Amended	33	07/01/2004	85-2004
11-10-11.5-5	Amended	34	07/01/2004	85-2004
11-10-11.5-7	Amended	35	07/01/2004	85-2004
11-10-11.5-8	Amended	36	07/01/2004	85-2004
11-10-11.5-11.5	Amended	37	07/01/2004	85-2004
11-10-12-4	Amended	19	07/01/2004	9-2004
11-10-13	New	1	07/01/2004	85-2004
11-11-3-9	Amended	38	07/01/2004	85-2004
11-12-2-1	Amended	42	07/01/2004	85-2004
11-12-2-3	Amended	2	07/01/2004	85-2004
11-12-3.5	Repealed	14	07/01/2004	85-2004
11-12-3.5-2	Amended	81	07/01/2004	98-2004
11-12-3.7	New	3	07/01/2004	85-2004
11-12-4-4	Amended	43	07/01/2004	85-2004
11-13-1-8	Amended	82	07/01/2004	98-2004
11-13-1-8	Amended	44	07/01/2004	85-2004

Affected Provisions	Type	SEC	Effective	P.L.
11-13-1-9	Amended	84	07/01/2003	28-2004
11-13-4-3	Amended	46	03/16/2004	97-2004
11-13-8-4	Amended	85	07/01/2003	28-2004

Title 12

12-7-2-28	Amended	2	07/01/2004	70-2004
12-7-2-76	Amended	47	03/16/2004	97-2004
12-7-2-76.7	Amended	3	07/01/2004	70-2004
12-7-2-103.3	New	48	03/16/2004	97-2004
12-7-2-104.5	Amended	49	03/16/2004	97-2004
12-7-2-124.5	Amended	4	07/01/2004	70-2004
12-7-2-129.5	Amended	5	07/01/2004	70-2004
12-7-2-143	Repealed	133	03/16/2004	97-2004
12-7-2-186.5	New	6	07/01/2004	70-2004
12-8-1-13	Amended	86	07/01/2003	28-2004
12-8-10-10	Amended	87	07/01/2003	28-2004
12-8-14-4	Amended	88	07/01/2003	28-2004
12-10-3-2	Amended	1	07/01/2004	281-2003
12-10-3-17	Amended	2	07/01/2004	281-2003
12-10-3-30	Amended	89	07/01/2003	28-2004
12-10-4-5	Amended	90	07/01/2003	28-2004
12-10-10-11	Amended	91	07/01/2003	28-2004
12-10-11.5-6	Amended	50	03/16/2004	97-2004
12-10-11.5-6	Amended	92	07/01/2003	28-2004
12-10-13-19	Amended	93	07/01/2003	28-2004
12-11-8-3	Amended	94	07/01/2003	28-2004
12-11-13-13	Amended	95	07/01/2003	28-2004
12-12-5-10	Amended	96	07/01/2003	28-2004
12-13-8-5	Amended	53	03/16/2004	23-2004
12-13-8-5	Amended	51	12/12/2003	1-2004
12-13-12-10	Amended	97	07/01/2003	28-2004
12-13-13-1	Amended	98	07/01/2003	28-2004
12-13-13-3	Amended	99	07/01/2003	28-2004
12-13-14.5-3	Amended	100	07/01/2003	28-2004
12-13-15-6.5	New	7	07/01/2004	70-2004
12-13-15.1	New	8	07/01/2004	70-2004
12-14-2-23	Amended	101	07/01/2003	28-2004
12-14-11-7	Amended	102	07/01/2003	28-2004
12-14-24-10	Repealed	183	07/01/2003	28-2004
12-14-25.5-3	Amended	9	07/01/2004	70-2004
12-15-1-14	Amended	103	07/01/2003	28-2004

Affected Provisions	Type	SEC	Effective	P.L.
12-15-12-19	Amended	1	07/01/2004	13-2004
12-15-13-3	Amended	3	07/01/2004	78-2004
12-15-15-1.6	New	4	07/01/2003	78-2004
12-15-15-9	Amended	5	07/01/2003	78-2004
12-15-15-9.5	Amended	6	07/01/2003	78-2004
12-15-15-9.8	New	7	07/01/2003	78-2004
12-15-16-1	Amended	8	07/01/2003	78-2004
12-15-18-5.1	Amended	9	07/01/2003	78-2004
12-15-35-28	Amended	104	07/01/2003	28-2004
12-15-35-28	Amended	51	03/16/2004	97-2004
12-15-42-14	Amended	105	07/01/2003	28-2004
12-17-2-18	Amended	83	07/01/2004	98-2004
12-17-2-30	Amended	84	07/01/2004	98-2004
12-17-2-34	Amended	52	03/16/2004	97-2004
12-17-12-18	Amended	106	07/01/2003	28-2004
12-17-15-15	Amended	107	07/01/2003	28-2004
12-17-16-14	Amended	108	07/01/2003	28-2004
12-17-17-2	Amended	85	07/01/2004	98-2004
12-17.2-3.1-11	Amended	109	07/01/2003	28-2004
12-17.2-3.5-12	Amended	1	07/01/2004	6-2004
12-17.2-3.5-12.1	Amended	2	07/01/2004	6-2004
12-17.2-4-3.5	Amended	3	07/01/2004	6-2004
12-17.2-5-3.5	Amended	4	07/01/2004	6-2004
12-17.6-2-12	Amended	110	07/01/2003	28-2004
12-18-5-6	Amended	86	07/01/2004	98-2004
12-18-8-4	Amended	53	03/16/2004	97-2004
12-18-8-6	Amended	1	07/01/2004	44-2004
12-18-8-8	Amended	54	03/16/2004	97-2004
12-18-8-9	Amended	55	03/16/2004	97-2004
12-18-8-10	Amended	2	07/01/2004	44-2004
12-18-8-10	Amended	56	03/16/2004	97-2004
12-18-8-13	Amended	57	03/16/2004	97-2004
12-18-8-16	New	3	07/01/2004	44-2004
12-19-7-4	Amended	52	12/12/2003	1-2004
12-19-7-4	Amended	54	03/16/2004	23-2004
12-19-7.5-6	Amended	53	12/12/2003	1-2004
12-19-7.5-6	Amended	55	03/16/2004	23-2004
12-20-28-3	Amended	111	07/01/2003	28-2004
12-21-5-1.5	Amended	112	07/01/2003	28-2004
12-23-5-1	Amended	4	07/01/2004	85-2004
12-23-5-5	Amended	21	07/01/2004	76-2004
12-23-5-5.5	New	22	07/01/2004	76-2004

Affected Provisions	Type	SEC	Effective	P.L.
12-23-14-13	Amended	87	07/01/2004	98-2004
12-23-14-14	Amended	88	07/01/2004	98-2004
12-23-14-17	Amended	89	07/01/2004	98-2004
12-23-14.5-3	Amended	90	07/01/2004	98-2004
12-23-14.5-9	Amended	91	07/01/2004	98-2004
12-23-14.5-10	Amended	92	07/01/2004	98-2004
12-23-14.5-12	Amended	93	07/01/2004	98-2004
12-23-14.5-14	Amended	5	07/01/2004	85-2004
12-24-1-7	Amended	113	07/01/2003	28-2004
12-24-1-10	Amended	114	07/01/2003	28-2004
12-26-1-2	Amended	94	07/01/2004	98-2004
12-26-7-2	Amended	1	07/01/2004	77-2004
12-26-15-1	Amended	2	07/01/2004	77-2004
12-29-1-1	Amended	10	01/01/2004	78-2004
12-29-1-2	Amended	11	01/01/2004	78-2004
12-29-1-3	Amended	12	01/01/2004	78-2004
12-29-1-4	Amended	13	01/01/2004	78-2004
12-29-1-7	Amended	14	01/01/2004	78-2004
12-29-2-1.2	New	15	01/01/2004	78-2004
12-29-2-2	Amended	56	03/16/2004	23-2004
12-29-2-2	Amended	16	01/01/2004	78-2004
12-29-2-2	Amended	54	12/12/2003	1-2004
12-29-2-5	Amended	55	12/12/2003	1-2004
12-29-2-5	Amended	57	03/16/2004	23-2004
12-29-2-6	Repealed	25	01/01/2004	78-2004
12-29-2-13	Amended	17	01/01/2004	78-2004
12-29-2-17	New	18	01/01/2004	78-2004
12-29-2-18	New	19	01/01/2004	78-2004
12-29-2-19	New	20	01/01/2004	78-2004
12-29-2-20	New	21	01/01/2004	78-2004

Title 13

13-11-2-25.8	New	21	01/27/2004	282-2003
13-11-2-25.8	Amended	1	03/16/2004	52-2004
13-11-2-29	Amended	22	01/27/2004	282-2003
13-11-2-36.3	New	23	01/27/2004	282-2003
13-11-2-38.3	New	2	03/16/2004	24-2004
13-11-2-61	New	2	03/16/2004	52-2004
13-11-2-74.5	New	24	01/27/2004	282-2003
13-11-2-74.5	Amended	3	03/16/2004	52-2004
13-11-2-84.5	New	58	03/16/2004	97-2004

Affected Provisions	Type	SEC	Effective	P.L.
13-11-2-85.5	Repealed	133	03/16/2004	97-2004
13-11-2-112.5	New	25	01/27/2004	282-2003
13-11-2-115.5	New	59	03/16/2004	97-2004
13-11-2-116	Amended	60	03/16/2004	97-2004
13-11-2-117	Repealed	133	03/16/2004	97-2004
13-11-2-130.5	New	26	07/01/2004	282-2003
13-11-2-144.8	New	5	03/16/2004	24-2004
13-11-2-160	Amended	61	03/16/2004	97-2004
13-11-2-166.5	Repealed	12	03/16/2004	52-2004
13-11-2-166.5	New	27	01/27/2004	282-2003
13-11-2-221.5	New	28	01/27/2004	282-2003
13-11-2-233.5	New	29	01/27/2004	282-2003
13-11-2-245.5	New	30	01/27/2004	282-2003
13-11-2-265	Amended	31	01/27/2004	282-2003
13-11-2-265	Amended	4	03/16/2004	52-2004
13-11-2-265.1	New	62	03/16/2004	97-2004
13-11-2-265.5	Repealed	133	03/16/2004	97-2004
13-11-2-265.6	New	32	01/27/2004	282-2003
13-11-2-265.7	New	33	01/27/2004	282-2003
13-11-2-265.8	New	34	01/27/2004	282-2003
13-14-9-3	Amended	35	01/27/2004	282-2003
13-15-12-1	Amended	115	07/01/2003	28-2004
13-17-5-6.7	New	36	07/01/2004	282-2003
13-17-5-9	New	37	07/01/2004	282-2003
13-18-10-1	Amended	3	03/16/2004	24-2004
13-18-13-5	Amended	116	07/01/2003	28-2004
13-18-13-6	Amended	117	07/01/2003	28-2004
13-18-17-1	Amended	118	07/01/2003	28-2004
13-18-17-5	Amended	6	03/16/2004	24-2004
13-18-20-11.5	New	4	03/16/2004	24-2004
13-18-21-5	Amended	119	07/01/2003	28-2004
13-18-21-6	Amended	120	07/01/2003	28-2004
13-18-22	New	38	01/27/2004	282-2003
13-18-22-2	Amended	5	03/16/2004	52-2004
13-18-22-3	Amended	6	03/16/2004	52-2004
13-18-22-4	Amended	7	03/16/2004	52-2004
13-18-22-5	Amended	8	03/16/2004	52-2004
13-18-22-7	Amended	9	03/16/2004	52-2004
13-18-22-8	Amended	10	03/16/2004	52-2004
13-18-22-10	Amended	11	03/16/2004	52-2004
13-18-23	New	39	01/27/2004	282-2003
13-19-5-3	Amended	121	07/01/2003	28-2004

Affected Provisions	Type	SEC	Effective	P.L.
13-20-13-10	Amended	122	07/01/2003	28-2004
13-20-20-12	Amended	123	07/01/2003	28-2004
13-23-12-7	Amended	1	07/01/2004	24-2004
13-26-10-3	Amended	2	07/01/2004	53-2004
13-27-6-1	Amended	124	07/01/2003	28-2004
13-27.5-2-9	Amended	125	07/01/2003	28-2004

Title 14

14-8-2-117.3	Amended	1	07/01/2004	71-2004
14-12-2-33	Amended	126	07/01/2003	28-2004
14-13-3-13	Amended	127	07/01/2003	28-2004
14-13-4-14	Amended	128	07/01/2003	28-2004
14-13-5-15	Amended	129	07/01/2003	28-2004
14-20-15	New	5	03/16/2004	54-2004
14-21-1-18	Amended	130	07/01/2003	28-2004
14-21-1-25.5	New	2	07/01/2004	283-2003
14-22-3-5	Amended	95	07/01/2004	98-2004
14-25-1-11	Amended	2	07/01/2004	71-2004
14-25-7-16	Amended	131	07/01/2003	28-2004
14-25.5-4-6	Amended	3	07/01/2004	71-2004
14-26-2-19	Amended	4	07/01/2004	71-2004
14-26-2-20	Amended	5	07/01/2004	71-2004
14-26-2-21	Amended	6	07/01/2004	71-2004
14-26-2-22	Amended	7	07/01/2004	71-2004
14-26-5-17	Amended	8	07/01/2004	71-2004
14-26-6-3	Amended	9	07/01/2004	71-2004
14-27-2-2	Amended	10	07/01/2004	71-2004
14-27-7-5	Amended	11	07/01/2004	71-2004
14-27-7-7	Amended	12	07/01/2004	71-2004
14-27-7.5-7	Amended	13	07/01/2004	71-2004
14-27-7.5-11	Amended	14	07/01/2004	71-2004
14-27-7.5-13	Amended	15	07/01/2004	71-2004
14-27-7.5-16	New	16	07/01/2004	71-2004
14-28-1-24	Amended	17	07/01/2004	71-2004
14-28-1-25	Amended	18	07/01/2004	71-2004
14-28-1-32	Amended	19	07/01/2004	71-2004
14-28-1-33	Amended	20	07/01/2004	71-2004
14-28-1-34	Amended	21	07/01/2004	71-2004
14-28-1-35	Amended	22	07/01/2004	71-2004
14-28-1-36	Amended	23	07/01/2004	71-2004
14-29-3-4	Amended	24	07/01/2004	71-2004

Affected Provisions	Type	SEC	Effective	P.L.
14-29-4-9	Amended	25	07/01/2004	71-2004
14-30-1-12	Amended	132	07/01/2003	28-2004
14-32-8-9	Amended	133	07/01/2003	28-2004
14-33-4-2	Amended	1	07/01/2004	4-2004
14-33-4-3	Repealed	3	07/01/2004	4-2004
14-33-5-12	Amended	2	07/01/2004	4-2004
14-34-6-7	Amended	26	07/01/2004	71-2004
14-34-6-10	Amended	27	07/01/2004	71-2004
14-34-8-4	Amended	28	07/01/2004	71-2004
14-34-8-6	Amended	29	07/01/2004	71-2004
14-34-8-11	Amended	30	07/01/2004	71-2004
14-34-19-15	New	31	07/01/2004	71-2004

Title 15

15-1-1.5-8	Amended	134	07/01/2003	28-2004
15-1.5-10.5-3	Amended	2	07/01/2004	91-2004
15-1.5-10.5-8.3	New	3	07/01/2004	91-2004
15-3-4.6-4.1	Amended	96	07/01/2004	98-2004
15-4-10-12	Amended	4	07/01/2004	74-2004
15-4-10-16	Amended	5	07/01/2004	74-2004
15-4-10-22	Amended	6	07/01/2004	74-2004
15-4-10-24	Amended	7	07/01/2004	74-2004
15-4-10-24.5	New	8	07/01/2004	74-2004
15-6-4-4	Amended	9	07/01/2004	74-2004
15-6-4-9	Amended	10	07/01/2004	74-2004
15-6-4-10	Amended	11	07/01/2004	74-2004
15-6-4-12	Amended	12	07/01/2004	74-2004
15-6-4-14	Amended	13	07/01/2004	74-2004

Title 16

16-18-2-14	Amended	1	07/01/2004	17-2004
16-18-2-62	Amended	1	07/01/2004	61-2004
16-18-2-67	Amended	63	03/16/2004	97-2004
16-18-2-84	Amended	1	07/01/2004	12-2004
16-18-2-92.6	New	2	07/01/2004	50-2004
16-18-2-96	Amended	2	07/01/2004	12-2004
16-18-2-97	Amended	3	07/01/2004	12-2004
16-18-2-159.1	New	3	07/01/2004	50-2004
16-18-2-161.5	New	2	07/01/2004	61-2004
16-18-2-163.5	New	3	07/01/2004	61-2004

Affected Provisions	Type	SEC	Effective	P.L.
16-18-2-294.5	New	4	07/01/2004	50-2004
16-18-2-296.3	New	1	07/01/2004	16-2004
16-18-2-346.5	New	1	07/01/2004	69-2004
16-19-3-26	Amended	1	03/09/2004	3-2004
16-19-10-8	New	1	03/09/2004	8-2004
16-19-13-3	Amended	135	07/01/2003	28-2004
16-19-13-6	Amended	97	07/01/2004	98-2004
16-21-6-7	Amended	22	07/01/2003	78-2004
16-21-6-10	Amended	136	07/01/2003	28-2004
16-25-3-2.5	New	4	07/01/2004	12-2004
16-27-0.5	New	5	07/01/2004	12-2004
16-28-11-4	New	1	07/01/2004	75-2004
16-30-2-1	Amended	137	07/01/2003	28-2004
16-31-6-4	Amended	64	03/16/2004	97-2004
16-31-8.5-1	Amended	65	03/16/2004	97-2004
16-35-3-3	Amended	58	03/16/2004	23-2004
16-35-3-3	Amended	56	12/12/2003	1-2004
16-36-1.5-5	Amended	2	07/01/2004	16-2004
16-36-1.7	New	3	07/01/2004	16-2004
16-38-2-1	Amended	2	07/01/2004	17-2004
16-38-2-3	Amended	3	07/01/2004	17-2004
16-38-2-11	Amended	4	07/01/2004	17-2004
16-38-4-1	Amended	5	07/01/2004	17-2004
16-38-4-8	Amended	6	07/01/2004	17-2004
16-38-4-8	Amended	138	07/01/2003	28-2004
16-38-4-9	Amended	7	07/01/2004	17-2004
16-38-4-18	Amended	139	07/01/2003	28-2004
16-38-4-19	Amended	140	07/01/2003	28-2004
16-38-5-4	Amended	66	03/16/2004	97-2004
16-38-6-1	Amended	2	07/01/2004	13-2004
16-38-6-4	Amended	3	07/01/2004	13-2004
16-39-5-3	Amended	23	07/01/2003	78-2004
16-39-9-3	Amended	24	07/01/2003	78-2004
16-41-6-1	Amended	67	03/16/2004	97-2004
16-41-6-8	Amended	68	03/16/2004	97-2004
16-41-10-3	Amended	69	03/16/2004	97-2004
16-41-41	New	2	07/01/2004	69-2004
16-42-5-28	Amended	70	03/16/2004	97-2004
16-42-5.2-3	Amended	71	03/16/2004	97-2004
16-46-5-18	Amended	141	07/01/2003	28-2004
16-46-6-11	Amended	142	07/01/2003	28-2004

Affected Provisions	Type	SEC	Effective	P.L.
16-46-11.1	New	4	07/01/2004	61-2004
16-47	New	5	07/01/2004	50-2004

Title 20

20-1-1.6-6	Amended	143	07/01/2003	28-2004
20-1-18.3-10	Amended	144	07/01/2003	28-2004
20-1-18.3-11	Amended	145	07/01/2003	28-2004
20-1-18.4-8	Amended	146	07/01/2003	28-2004
20-1-18.7	New	18	07/01/2004	96-2004
20-1-20-12	Amended	147	07/01/2003	28-2004
20-4-8-18	Amended	187	03/16/2004	14-2004
20-5-2-7	Amended	72	03/16/2004	97-2004
20-5.5-3-9	Amended	148	07/01/2003	28-2004
20-5.5-3-12	Amended	149	07/01/2003	28-2004
20-5.5-7-3	Amended	59	03/16/2004	23-2004
20-5.5-7-3	Amended	57	12/12/2003	1-2004
20-6.1-3-11	Amended	73	03/16/2004	97-2004
20-6.1-4-1	Amended	74	03/16/2004	97-2004
20-8.1-5.1-23	Amended	75	03/16/2004	97-2004
20-8.1-6.1-12	Amended	150	07/01/2003	28-2004
20-8.1-7-9.5	Amended	1	07/01/2004	38-2004
20-8.1-13-1	Amended	2	03/09/2004	8-2004
20-9.1-1-4.5	Amended	1	07/01/2004	47-2004
20-9.1-5-2.6	Amended	2	07/01/2004	47-2004
20-10.1-5.5-7	Amended	151	07/01/2003	28-2004
20-10.1-22.4-3	Amended	49	07/01/2004	85-2004
20-10.1-25.1-4	Amended	152	07/01/2003	28-2004
20-10.1-27-12	Amended	153	07/01/2003	28-2004
20-10.2-2-3.7	New	1	07/01/2004	57-2004
20-10.2-2-3.8	New	2	07/01/2004	57-2004
20-10.2-2-9.5	New	3	07/01/2004	57-2004
20-10.2-8	New	4	07/01/2004	57-2004
20-12-0.5-8	Amended	154	07/01/2003	28-2004
20-12-14-2	Amended	76	03/16/2004	97-2004
20-12-19.5-1	Amended	77	03/16/2004	97-2004
20-12-70-16	Amended	155	07/01/2003	28-2004
20-12-75-11	Amended	156	07/01/2003	28-2004

Affected Provisions	Type	SEC	Effective	P.L.
Title 21				
21-1-3-8	Amended	58	12/12/2003	1-2004
21-1-3-8	Amended	60	03/16/2004	23-2004
21-2-11-4	Amended	78	03/16/2004	97-2004
21-2-11.5-3	Amended	59	12/12/2003	1-2004
21-2-11.5-3	Amended	61	03/16/2004	23-2004
21-2-15-4	Amended	79	03/16/2004	97-2004
21-3-1.6-2	Amended	80	03/16/2004	97-2004
21-3-1.7-6.8	Amended	62	03/16/2004	23-2004
21-3-1.7-6.8	Amended	60	12/12/2003	1-2004
21-3-1.7-9.8	Amended	81	03/16/2004	97-2004
21-9-4-8	Amended	157	07/01/2003	28-2004
Title 22				
22-1-1-11	Amended	158	07/01/2003	28-2004
22-4-15-1	Amended	82	03/16/2004	97-2004
22-4-15-2	Amended	83	03/16/2004	97-2004
22-4-17-2	Amended	84	03/16/2004	97-2004
22-4-18-7	Amended	159	07/01/2003	28-2004
22-4-18.1-3	Amended	19	07/01/2004	96-2004
22-4-18.1-4	Amended	20	07/01/2004	96-2004
22-4-18.1-7	Amended	21	07/01/2004	96-2004
22-4-18.1-11	New	22	07/01/2004	96-2004
22-4-18.1-12	New	23	07/01/2004	96-2004
22-4.1-5-3	Amended	160	07/01/2003	28-2004
22-4.1-7	New	24	03/18/2004	96-2004
22-4.1-8	New	25	07/01/2004	96-2004
22-4.1-9	New	26	07/01/2004	96-2004
22-11-14-1	Amended	1	07/01/2004	25-2004
22-11-14-2	Amended	2	07/01/2004	25-2004
22-11-14.5	New	3	07/01/2004	25-2004
22-12-1-3.5	New	4	03/16/2004	25-2004
22-12-1-19.1	Amended	5	03/16/2004	25-2004
22-12-7-7	Amended	1	07/01/2004	35-2004
22-13-4-7	Amended	85	03/16/2004	97-2004
Title 23				
23-2-1-2	Amended	5	07/01/2004	73-2004
23-2-1-6	Amended	6	07/01/2004	73-2004

Affected Provisions	Type	SEC	Effective	P.L.
23-2-1-15	Amended	7	07/01/2004	73-2004
23-2-1-19	Amended	8	07/01/2004	73-2004
23-2-1-19.5	Amended	9	07/01/2004	73-2004
23-2-1-26	New	10	07/01/2004	73-2004
23-2-1-27	New	11	07/01/2004	73-2004
23-2-5-3	Amended	12	07/01/2004	73-2004
23-2-5-19	Amended	13	07/01/2004	73-2004
23-5-2-10	Amended	161	07/01/2003	28-2004
23-6-4-22	Amended	162	07/01/2003	28-2004
23-7-8-2	Amended	86	03/16/2004	97-2004
23-15-8-3	Amended	14	07/01/2004	73-2004

Title 24

24-3-5-7	Amended	87	03/16/2004	97-2004
24-3-5.2-7	Amended	88	03/16/2004	97-2004
24-3-5.2-8	Amended	89	03/16/2004	97-2004
24-4.5-1-102	Amended	15	01/01/2004	73-2004
24-4.5-1-202	Amended	16	07/01/2004	73-2004
24-4.5-3-701	New	15	07/01/2004	64-2004
24-4.5-7-104	Amended	17	07/01/2004	73-2004
24-4.5-7-105	Amended	18	07/01/2004	73-2004
24-4.5-7-107	Amended	19	07/01/2004	73-2004
24-4.5-7-108	Amended	20	07/01/2004	73-2004
24-4.5-7-109	Amended	21	07/01/2004	73-2004
24-4.5-7-110	Amended	22	07/01/2004	73-2004
24-4.5-7-201	Amended	23	07/01/2004	73-2004
24-4.5-7-202	Amended	24	07/01/2004	73-2004
24-4.5-7-301	Amended	25	07/01/2004	73-2004
24-4.5-7-401	Amended	26	07/01/2004	73-2004
24-4.5-7-402	Amended	27	07/01/2004	73-2004
24-4.5-7-404	Amended	28	07/01/2004	73-2004
24-4.5-7-406	Amended	29	07/01/2004	73-2004
24-4.5-7-407	Repealed	48	07/01/2004	73-2004
24-4.5-7-408	Repealed	48	07/01/2004	73-2004
24-4.5-7-409	Amended	30	07/01/2004	73-2004
24-4.5-7-410	Amended	31	03/17/2004	73-2004
24-4.5-7-412	Amended	32	07/01/2004	73-2004
24-4.7-1-1	Amended	90	03/16/2004	97-2004
24-4.7-3-5	Amended	163	07/01/2003	28-2004
24-5-22-7	Amended	91	03/16/2004	97-2004
24-9	New	33	01/01/2005	73-2004

Affected Provisions	Type	SEC	Effective	P.L.
Title 25				
25-1-2-8	Amended	98	07/01/2004	98-2004
25-1-4-4	New	1	03/09/2004	88-2004
25-1-12	New	2	03/09/2004	88-2004
25-14-1-27.5	Amended	92	03/16/2004	97-2004
25-18-1-6	Amended	99	07/01/2004	98-2004
25-22.5-1-2	Amended	93	03/16/2004	97-2004
25-22.5-5-4.5	Amended	94	03/16/2004	97-2004
25-26-13-25	Amended	2	07/01/2004	75-2004
25-26-13-25	Amended	95	03/16/2004	97-2004
25-26-16.5	New	3	07/01/2004	75-2004
25-26-20	New	4	07/01/2004	75-2004
25-34.1-1-2	Amended	16	03/17/2004	64-2004
25-34.1-3-2	Amended	17	03/17/2004	64-2004
25-34.1-3-4.1	Amended	18	03/17/2004	64-2004
25-34.1-3-5	Amended	19	03/17/2004	64-2004
25-34.1-3-11	New	20	03/17/2004	64-2004
25-34.1-4-3	Amended	21	03/17/2004	64-2004

Title 26

26-1-9.1-527	Amended	164	07/01/2003	28-2004
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Title 27

27-1-3-30	Amended	165	07/01/2003	28-2004
27-1-12-2	Amended	1	07/01/2004	40-2004
27-1-12.5-2	Amended	1	07/01/2004	59-2004
27-1-12.5-3	Amended	2	07/01/2004	59-2004
27-1-12.5-11	New	3	07/01/2004	59-2004
27-1-13-3	Amended	2	07/01/2004	40-2004
27-1-15.6-4	Amended	22	07/01/2004	64-2004
27-1-15.6-6	Amended	23	07/01/2004	64-2004
27-1-15.6-7	Amended	24	07/01/2004	64-2004
27-1-15.7-2	Amended	25	07/01/2004	64-2004
27-1-15.7-5	Amended	26	07/01/2004	64-2004
27-1-15.7-6	Amended	27	07/01/2004	64-2004
27-1-25-1	Amended	96	03/16/2004	97-2004
27-1-29-7	Amended	166	07/01/2003	28-2004
27-4-1-4	Amended	97	03/16/2004	97-2004
27-6-5-1	Amended	167	07/01/2003	28-2004

Affected Provisions	Type	SEC	Effective	P.L.
27-7-6-6	Amended	98	03/16/2004	97-2004
27-8-10-2.1	Amended	1	01/01/2005	51-2004
27-8-10-2.1	Amended	99	03/16/2004	97-2004
27-8-10-2.2	New	2	07/01/2004	51-2004
27-8-10-2.3	Amended	168	07/01/2003	28-2004
27-8-10-2.3	Amended	3	07/01/2004	51-2004
27-8-10-2.4	New	4	01/01/2005	51-2004
27-8-10-2.5	New	5	07/01/2004	51-2004
27-8-10-2.6	New	6	01/01/2004	51-2004
27-8-10-3	Amended	7	03/15/2004	51-2004
27-8-10-3.2	New	8	03/16/2004	51-2004
27-8-10-5.1	Amended	100	03/16/2004	97-2004
27-8-10-12	Repealed	10	07/01/2004	51-2004
27-8-10-13	Repealed	10	07/01/2004	51-2004
27-8-10-14	Amended	101	03/16/2004	97-2004
27-8-10-14	Amended	9	03/16/2004	51-2004
27-13-1-3	Repealed	133	03/16/2004	97-2004
27-13-1-21.3	New	102	03/16/2004	97-2004

Title 28

28-1-5-16	New	29	07/01/2004	64-2004
28-1-11-3.2	Amended	34	07/01/2004	73-2004
28-1-20-4	Amended	35	03/17/2004	73-2004
28-5-1-26	New	30	07/01/2004	64-2004
28-6.1-6-25	New	31	07/01/2004	64-2004
28-7-1-9	Amended	36	07/01/2004	73-2004
28-7-1-9.2	Amended	37	07/01/2004	73-2004
28-7-1-38	New	32	07/01/2004	64-2004
28-8-4-27	Amended	38	07/01/2004	73-2004
28-8-4-33	Amended	39	07/01/2004	73-2004
28-10-1-1	Amended	40	01/01/2004	73-2004
28-11-3-6	New	41	07/01/2004	73-2004
28-13-16-4	Amended	42	07/01/2004	73-2004
28-13-16-5	Amended	43	07/01/2004	73-2004
28-15-2-2	Amended	44	07/01/2004	73-2004

Title 29

29-3-1-16	New	1	07/01/2004	41-2004
29-3-2-1	Amended	100	07/01/2004	98-2004
29-3-8.5	New	2	07/01/2004	41-2004

Affected Provisions	Type	SEC	Effective	P.L.
29-3-9-2	Amended	3	07/01/2004	41-2004
29-3-11-4	New	4	07/01/2004	41-2004

Title 30

30-2-8.6-38	Amended	103	03/16/2004	97-2004
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Title 31

31-9-2-13	Amended	1	07/01/2004	27-2004
31-9-2-29.7	New	10	07/01/2004	70-2004
31-9-2-30	Amended	2	07/01/2004	27-2004
31-9-2-42	Amended	104	03/16/2004	97-2004
31-9-2-44.5	Amended	105	03/16/2004	97-2004
31-9-2-50	Amended	101	07/01/2004	98-2004
31-9-2-58.5	New	11	07/01/2004	70-2004
31-9-2-76.5	Amended	106	03/16/2004	97-2004
31-9-2-113.5	New	50	07/01/2004	85-2004
31-14-12-2.5	New	3	07/01/2004	27-2004
31-14-14-1	Amended	1	03/16/2004	15-2004
31-16-12.5	New	4	07/01/2004	27-2004
31-16-20-4	Amended	102	07/01/2004	98-2004
31-16-21-1	Amended	103	07/01/2004	98-2004
31-17-4-1	Amended	2	03/16/2004	15-2004
31-17-5-2	Amended	3	03/16/2004	15-2004
31-18-1-2	Amended	107	03/16/2004	97-2004
31-19-2.5-3	Amended	108	03/16/2004	97-2004
31-30-1-2	Amended	104	07/01/2004	98-2004
31-30-1-8	Amended	105	07/01/2004	98-2004
31-30-1-10	Amended	106	07/01/2004	98-2004
31-31-2-1	Amended	107	07/01/2004	98-2004
31-31-2-2	Amended	108	07/01/2004	98-2004
31-31-3-2	Amended	109	07/01/2004	98-2004
31-31-3-3	Amended	110	07/01/2004	98-2004
31-31-4-2	Amended	111	07/01/2004	98-2004
31-33-2-2	Amended	12	07/01/2004	70-2004
31-33-8-12	Amended	13	07/01/2004	70-2004
31-33-18-1	Amended	14	07/01/2004	70-2004
31-33-18-1.5	New	15	07/01/2004	70-2004
31-33-18-2	Amended	16	07/01/2004	70-2004
31-33-22-2	Amended	17	07/01/2004	70-2004
31-34-1-3	Amended	1	07/01/2004	18-2004

Affected Provisions	Type	SEC	Effective	P.L.
31-34-4-2	Amended	18	07/01/2004	70-2004
31-34-8-8	Amended	112	07/01/2004	98-2004
31-34-8-9	Amended	113	07/01/2004	98-2004
31-34-12-4.5	New	2	07/01/2004	18-2004
31-34-18-6.1	Amended	19	07/01/2004	70-2004
31-34-19-7	Amended	20	07/01/2004	70-2004
31-34-20-1	Amended	21	07/01/2004	70-2004
31-34-20-1.5	New	22	07/01/2004	70-2004
31-34-21-7.5	Amended	23	07/01/2004	70-2004
31-37-3-2	Amended	1	03/17/2004	87-2004
31-37-3-3	Amended	2	03/17/2004	87-2004
31-37-7-3	Amended	1	07/01/2004	58-2004
31-37-9-9	Amended	114	07/01/2004	98-2004
31-37-9-10	Amended	115	07/01/2004	98-2004
31-37-17-6.1	Amended	24	07/01/2004	70-2004
31-37-19-1	Amended	25	07/01/2004	70-2004
31-37-19-6	Amended	26	07/01/2004	70-2004
31-37-19-6.5	New	27	07/01/2004	70-2004
31-37-19-17.4	New	28	07/01/2004	70-2004
31-39-2-13.5	New	29	07/01/2004	70-2004
31-39-2-13.8	New	51	07/01/2004	85-2004
31-40-2-1	Amended	116	07/01/2004	98-2004

Title 32

32-22-1-3	Amended	117	07/01/2004	98-2004
32-24-1-4	Amended	26	07/01/2004	81-2004
32-29-1-2.5	New	45	07/01/2004	73-2004
32-29-7-3	Amended	118	07/01/2004	98-2004
32-29-7-6	Amended	119	07/01/2004	98-2004
32-34-1-20	Amended	109	03/16/2004	97-2004
32-34-1-28	Amended	27	07/01/2004	81-2004
32-34-1-28.5	New	28	03/17/2004	81-2004
32-34-1-31	Amended	110	03/16/2004	97-2004

Title 33

33-1	Repealed	164	07/01/2004	98-2004
33-1-4-1	Amended	1	07/01/2004	65-2004
33-1-15-7	Amended	169	07/01/2003	28-2004
33-2	Repealed	164	07/01/2004	98-2004
33-2.1	Repealed	164	07/01/2004	98-2004

Affected Provisions	Type	SEC	Effective	P.L.
33-2.1-6-2	Amended	2	07/01/2004	65-2004
33-2.1-6-3	Amended	3	07/01/2004	65-2004
33-2.1-7-5	Amended	170	07/01/2003	28-2004
33-2.1-10-7	Amended	171	07/01/2003	28-2004
33-3	Repealed	164	07/01/2004	98-2004
33-4	Repealed	164	07/01/2004	98-2004
33-4-5-7	Amended	111	03/16/2004	97-2004
33-4-8-3	Amended	112	03/16/2004	97-2004
33-5	Repealed	164	07/01/2004	98-2004
33-5.1	Repealed	164	07/01/2004	98-2004
33-6	Repealed	164	07/01/2004	98-2004
33-8	Repealed	164	07/01/2004	98-2004
33-9	Repealed	164	07/01/2004	98-2004
33-9-13-3	Amended	172	07/01/2003	28-2004
33-10.1	Repealed	164	07/01/2004	98-2004
33-10.5	Repealed	164	07/01/2004	98-2004
33-11.6	Repealed	164	07/01/2004	98-2004
33-11.6-2-2	Amended	4	07/01/2004	65-2004
33-11.6-2-3	Amended	5	07/01/2004	65-2004
33-11.6-2-5	Amended	6	07/01/2004	65-2004
33-12	Repealed	164	07/01/2004	98-2004
33-13	Repealed	164	07/01/2004	98-2004
33-13-8-25	Amended	4	09/01/2003	94-2004
33-14	Repealed	164	07/01/2004	98-2004
33-14-7-1	Amended	7	07/01/2004	65-2004
33-14-9-10	Amended	5	09/01/2003	94-2004
33-15	Repealed	164	07/01/2004	98-2004
33-15-1-1	Amended	188	07/01/2004	14-2004
33-15-1-7	Amended	189	07/01/2004	14-2004
33-15-23-1	Amended	8	07/01/2004	65-2004
33-15-23-5	Amended	9	07/01/2004	65-2004
33-16	Repealed	164	07/01/2004	98-2004
33-17	Repealed	164	07/01/2004	98-2004
33-19	Repealed	164	07/01/2004	98-2004
33-19-6.5-2	Repealed	23	07/01/2004	65-2004
33-19-6.5-2.5	New	10	07/01/2004	65-2004
33-20	Repealed	164	07/01/2004	98-2004
33-20-9-1	Amended	173	07/01/2003	28-2004
33-21	Repealed	164	07/01/2004	98-2004
33-22	New	1	07/01/2004	98-2004
33-23	New	2	07/01/2004	98-2004
33-24	New	3	07/01/2004	98-2004

Affected Provisions	Type	SEC	Effective	P.L.
33-24-4-1	Amended	190	07/01/2004	14-2004
33-24-4-7	Amended	191	07/01/2004	14-2004
33-25	New	4	07/01/2004	98-2004
33-26	New	5	07/01/2004	98-2004
33-27	New	6	07/01/2004	98-2004
33-28	New	7	07/01/2004	98-2004
33-29	New	8	07/01/2004	98-2004
33-30	New	9	07/01/2004	98-2004
33-31	New	10	07/01/2004	98-2004
33-32	New	11	07/01/2004	98-2004
33-33	New	12	07/01/2004	98-2004
33-34	New	13	07/01/2004	98-2004
33-34-1-6	Amended	13	07/01/2004	65-2004
33-34-1-7	Amended	14	07/01/2004	65-2004
33-34-1-9	Amended	15	07/01/2004	65-2004
33-34-8-1	Amended	3	07/01/2004	95-2004
33-34-8-1	Amended	15	07/01/2004	85-2004
33-35	New	14	07/01/2004	98-2004
33-36	New	15	07/01/2004	98-2004
33-37	New	16	07/01/2004	98-2004
33-37-4-1	Amended	16	07/01/2004	85-2004
33-37-4-1	Amended	4	07/01/2004	95-2004
33-37-4-2	Amended	5	07/01/2004	95-2004
33-37-4-2	Amended	17	07/01/2004	85-2004
33-37-4-3	Amended	18	07/01/2004	85-2004
33-37-4-3	Amended	6	07/01/2004	95-2004
33-37-4-4	Amended	7	07/01/2004	95-2004
33-37-4-4	Amended	19	07/01/2004	85-2004
33-37-4-5	Amended	20	07/01/2004	85-2004
33-37-4-5	Amended	8	07/01/2004	95-2004
33-37-4-6	Amended	21	07/01/2004	85-2004
33-37-4-6	Amended	9	07/01/2004	95-2004
33-37-4-7	Amended	22	07/01/2004	85-2004
33-37-4-7	Amended	10	07/01/2004	95-2004
33-37-5-21.2	New	23	07/01/2004	85-2004
33-37-5-25	New	11	07/01/2004	95-2004
33-37-6-2	Amended	16	07/01/2004	65-2004
33-37-7-1	Amended	24	07/01/2004	85-2004
33-37-7-1	Amended	12	07/01/2004	95-2004
33-37-7-2	Amended	25	07/01/2004	85-2004
33-37-7-2	Amended	13	07/01/2004	95-2004
33-37-7-7	Amended	14	07/01/2004	95-2004

Affected Provisions	Type	SEC	Effective	P.L.
33-37-7-7	Amended	26	07/01/2004	85-2004
33-37-7-8	Amended	15	07/01/2004	95-2004
33-37-7-8	Amended	27	07/01/2004	85-2004
33-37-7-9	Amended	28	07/01/2004	85-2004
33-38	New	17	07/01/2004	98-2004
33-38-5-8.2	New	16	04/01/2004	95-2004
33-38-6-23	Amended	6	07/01/2004	94-2004
33-38-14-8	Amended	17	07/01/2004	65-2004
33-38-14-9	Amended	18	07/01/2004	65-2004
33-39	New	18	07/01/2004	98-2004
33-39-6-1	Amended	19	07/01/2004	65-2004
33-39-7-11	Amended	7	07/01/2004	94-2004
33-40	New	19	07/01/2004	98-2004
33-40-6-6	Amended	29	07/01/2004	85-2004
33-40-8-5	Amended	20	07/01/2004	65-2004
33-41	New	20	07/01/2004	98-2004
33-41-1-1	Amended	21	07/01/2004	65-2004
33-41-1-5	Amended	22	07/01/2004	65-2004
33-42	New	21	07/01/2004	98-2004
33-43	New	22	07/01/2004	98-2004
33-44	New	23	07/01/2004	98-2004

Title 34

34-6-2-44.8	Amended	113	03/16/2004	97-2004
34-6-2-46.7	New	1	03/17/2004	80-2004
34-6-2-89	Amended	2	07/01/2004	80-2004
34-7-4-2	Amended	120	07/01/2004	98-2004
34-7-4-2	Amended	46	01/01/2005	73-2004
34-12-3-3	Amended	3	03/17/2004	80-2004
34-12-3-5	Amended	4	03/17/2004	80-2004
34-13-3-4	Amended	114	07/01/2003	97-2004
34-13-7	New	7	07/01/2004	80-2004
34-24-1-9	Amended	115	07/01/2004	97-2004
34-26-5-18	Amended	121	07/01/2004	98-2004
34-28-1-10	Amended	122	07/01/2004	98-2004
34-28-5-1	Amended	123	07/01/2004	98-2004
34-28-5-8	Amended	124	07/01/2004	98-2004
34-30-2-16.6	New	33	07/01/2004	64-2004
34-30-2-16.7	New	42	07/01/2004	81-2004
34-30-2-24.2	New	2	07/01/2004	60-2004
34-30-2-44.1	New	30	07/01/2004	70-2004

Affected Provisions	Type	SEC	Effective	P.L.
34-30-2-45.5	Amended	116	03/16/2004	97-2004
34-30-2-45.7	Amended	117	03/16/2004	97-2004
34-30-2-45.8	Amended	118	03/16/2004	97-2004
34-30-2-45.9	Amended	119	03/16/2004	97-2004
34-30-2-54	Amended	120	03/16/2004	97-2004
34-30-2-55	Repealed	133	03/16/2004	97-2004
34-30-2-71.5	New	4	07/01/2004	16-2004
34-30-2-85.5	New	52	07/01/2004	85-2004
34-30-2-101.5	New	5	07/01/2004	75-2004
34-30-2-116.8	Repealed	133	03/16/2004	97-2004
34-30-2-125.5	New	5	07/01/2004	41-2004
34-30-2-126.5	New	6	07/01/2004	41-2004
34-30-2-129.2	New	121	03/16/2004	97-2004
34-30-2-141	Amended	125	07/01/2004	98-2004
34-30-2-142	Amended	126	07/01/2004	98-2004
34-30-2-143	Amended	127	07/01/2004	98-2004
34-30-2-144	Amended	128	07/01/2004	98-2004
34-30-2-144.5	Amended	129	07/01/2004	98-2004
34-30-2-145	Amended	130	07/01/2004	98-2004
34-30-2-146	Amended	131	07/01/2004	98-2004
34-30-8-1	Amended	122	03/16/2004	97-2004
34-30-15-14	Amended	123	03/16/2004	97-2004
34-30-20	New	5	03/17/2004	80-2004
34-35-5-2	Amended	132	07/01/2004	98-2004
34-35-5-3	Amended	133	07/01/2004	98-2004
34-35-7-5	Amended	134	07/01/2004	98-2004
34-45-2-5	Amended	1	07/01/2004	33-2004
34-46-2-29	Amended	135	07/01/2004	98-2004
34-46-2-30	Amended	136	07/01/2004	98-2004
34-46-2-30.4	Amended	137	07/01/2004	98-2004
34-52-2-6	Amended	174	07/01/2003	28-2004
34-57-3-1	Amended	138	07/01/2004	98-2004
34-57-3-13	Amended	175	07/01/2003	28-2004
34-58	New	6	07/01/2004	80-2004

Title 35

35-33-7-6	Amended	139	07/01/2004	98-2004
35-33-8-3.2	Amended	140	07/01/2004	98-2004
35-33-8-5	Amended	141	07/01/2004	98-2004
35-33-8-9	Repealed	23	07/01/2004	65-2004
35-33-8-10	New	11	07/01/2004	65-2004

Affected Provisions	Type	SEC	Effective	P.L.
35-33-9-7	Repealed	23	07/01/2004	65-2004
35-33-9-8	New	12	07/01/2004	65-2004
35-33.5-2-4	Amended	176	07/01/2003	28-2004
35-33.5-2-5	Amended	142	07/01/2004	98-2004
35-33.5-3-3	Amended	143	07/01/2004	98-2004
35-34-2-3	Amended	144	07/01/2004	98-2004
35-34-2-14	Amended	145	07/01/2004	98-2004
35-34-2-15	Amended	146	07/01/2004	98-2004
35-36-2-2	Amended	3	07/01/2004	77-2004
35-36-2-4	Amended	4	07/01/2004	77-2004
35-36-3-1	Amended	5	07/01/2004	77-2004
35-36-3-2	Amended	6	07/01/2004	77-2004
35-36-3-3	Amended	7	07/01/2004	77-2004
35-36-3-4	Amended	8	07/01/2004	77-2004
35-36-6-9	Amended	147	07/01/2004	98-2004
35-37-4-6	Amended	1	07/01/2004	43-2004
35-37-5-4	Amended	148	07/01/2004	98-2004
35-37-5-5	Amended	149	07/01/2004	98-2004
35-38-1-5	Amended	6	07/01/2004	85-2004
35-38-1-25	Amended	39	07/01/2004	85-2004
35-38-2-1	Amended	150	07/01/2004	98-2004
35-38-2-2.1	Amended	151	07/01/2004	98-2004
35-38-2-3	Amended	152	07/01/2004	98-2004
35-40-5-5	Amended	7	07/01/2004	85-2004
35-40-8-1	Amended	8	07/01/2004	85-2004
35-40-8-2	Amended	9	07/01/2004	85-2004
35-40-10-2	Amended	153	07/01/2004	98-2004
35-41-1-6.3	Amended	154	07/01/2004	98-2004
35-41-1-26.8	New	10	07/01/2004	85-2004
35-41-4-2	Amended	124	03/16/2004	97-2004
35-42-2-1	Amended	3	07/01/2004	281-2003
35-42-2-6	Amended	53	07/01/2004	85-2004
35-44-3-9	Amended	1	07/01/2004	30-2004
35-46-1-4	Amended	1	07/01/2004	46-2004
35-46-1-8	Amended	2	07/01/2004	46-2004
35-46-1-13	Amended	4	07/01/2004	281-2003
35-47-2-1	Amended	155	07/01/2004	98-2004
35-47-2.5-7	Amended	125	03/16/2004	97-2004
35-47-4-6	Amended	156	07/01/2004	98-2004
35-47-7-6	Amended	177	07/01/2003	28-2004
35-47.5-4-4.5	Amended	6	07/01/2004	25-2004
35-47.5-4-4.5	New	2	07/01/2004	35-2004

Affected Provisions	Type	SEC	Effective	P.L.
35-47.5-5-11	New	3	07/01/2004	35-2004
35-48-2-1	Amended	178	07/01/2003	28-2004
35-48-2-10	Amended	3	07/01/2004	8-2004
35-48-4-15	Amended	23	07/01/2004	76-2004
35-50-2-2	Amended	11	07/01/2004	85-2004
35-50-5-3	Amended	54	07/01/2004	85-2004
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